UNITED
NATIONS

CRC

Convention on the
Rights of the Child

Distr.
GENERAL

CRC/C/15/Add.182
13 June 2002

Original: ENGLISH

COMMITTEE ON THE RIGHTS OF THE CHILD

Thirtieth session

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 44 OF THE CONVENTION

Concluding observations of the Committee on the rights of the child: Switzerland

1. The Committee considered the initial report of Switzerland (CRC/C/78/Add.3) at its 790th and 791st meetings (see CRC/C/SR.790 and 791), held on 29 May 2002, and adopted* the following concluding observations.

A. Introduction

2. The Committee welcomes the submission of the State party's initial report, which followed the established guidelines. The Committee also takes note of the timely submission of the written replies to its list of issues (CRC/C/Q/SWI/1), which allowed for a clearer understanding of the situation of children in the State party. The Committee also notes the positive dialogue it had with the delegation of the State party. The Committee acknowledges that the presence of a highly qualified delegation directly involved in the implementation of the Convention allowed for a better understanding of the rights of children in the State party.

* At the 804th meeting, held on 7 June 2002.

B. Positive aspects

3. The Committee welcomes the adoption of:

(a) The new Constitution of 1999 which enshrines provisions on the rights of the child, notably in its article 11;

(b) The new Act on divorce and filiation (entered into force in 2000);

(c) The amendments to the Penal Code which introduce the prohibition of possession of hard-core pornography, including child pornography (entered into force in 2002);

(d) The revision of the Federal Act concerning Assistance to Victims of Offences (entered into force in 2002);

(e) The Act on Medically Assisted Procreation (entered into force in 2001).

4. The Committee also welcomes the fact that the Convention can be directly invoked before the courts and that the Federal Tribunal has referred to the provisions and principles of the Convention on several occasions.

5. The Committee welcomes the State party's close cooperation with civil society with regard to children's rights.

C. Principal subjects of concern and recommendations

1. General measures of implementation

Reservations

6. The Committee is concerned at the reservations made by the State party to articles 5, 7, 10 and 37 and the four reservations made with regard to article 40, but welcomes the information that the State party is considering the withdrawal of most of these reservations thanks to recent and current revisions of the Constitution and other relevant laws, following a tentative timetable presented during the dialogue. Despite this information, the Committee remains concerned at the rather slow pace of this withdrawal process and even more at the fact that some reservations may not be withdrawn at all, or only in the distant future.

7. **In light of the 1993 Vienna Declaration and Programme of Action, the Committee recommends that the State party:**

(a) Expedite as much as possible the process for the withdrawal of the reservations regarding the provision of an interpreter free of charge (art. 40 (2) (b) (vi)) and use this process to withdraw as soon as possible the reservation to article 5, given the fact that this reservation is, according to the State party, only an interpretative declaration that is not intended to affect the meaning of article 5;

(b) Expedite the current revision of the naturalization law and withdraw as soon as possible after the approval of this revision the reservation made to article 7;

(c) Expedite the current revision of the Foreign Nationals Act (formerly Federal Act concerning the Permanent and Temporary Residence of Foreigners) and withdraw as soon as possible after the approval of the revision the reservation made to article 10, paragraph 1, regarding family reunification;

(d) Expedite the approval and enactment of the new Juvenile Penal Law in order to start as soon as possible thereafter the withdrawal of the reservation to article 40 (2) (b) (ii) regarding legal assistance and to article 37 (c) regarding separation of juveniles deprived of their liberty from adults;

(e) Reconsider the reservation made with regard to the possibility of having the same juvenile judge as an investigating and a sentencing judge since the requirement of an independent and impartial authority or judicial body (art. 40 (2) (b) (iii)) does not necessarily and under all circumstances mean that investigating and sentencing juvenile judges cannot be the same person;

(f) Expedite the current legal reform which abolishes the competence of the Federal Tribunal as a court of first instance and withdraw as soon as possible after approval of that reform the reservation made to article 40 (2) (b) (v).

8. **The Committee urges the State party to complete the withdrawal of all reservations before the submission of the next report.**

Legislation

9. The Committee is aware of the numerous laws under revision in the State party, including in the cantons, which are relevant to children such as the federal bill on criminal procedures applicable to minors, the federal bill on the criminal status of minors, and the Foreign National Act.

10. **The Committee recommends that the State Party:**

(a) Ensure, through an appropriate mechanism, that national and cantonal laws conform with the Convention in order to avoid discrimination which may arise from existing disparities in the State party;

(b) Rigorously review and ensure that these and other laws concerning children as well as administrative regulations, both at the federal and at the cantonal level, are rights based and conform to the Convention and other international human rights instruments and standards;

(c) Ensure that adequate provision is made for their effective implementation, including budgetary allocation; and

(d) Ensure their smooth and rapid promulgation.

Coordination

11. The Committee notes that the Federal Council stipulated in its resolution dated 15 October 1997 that the Federal Department for Home Affairs is responsible for coordinating the implementation of the Convention and that coordinating mechanisms exist between cantons and between the cantons and the Federal Government. However, the Committee remains concerned that the absence of a central mechanism to coordinate the implementation of the Convention in the State party makes it difficult to achieve a comprehensive and coherent child rights policy.

12. **The Committee recommends that the State party establish an adequate permanent national mechanism to coordinate the implementation of the Convention at the federal level, between the federal and the cantonal levels and between cantons.**

13. The Committee notes that the Federal Department of Home Affairs formulated elements of a Swiss policy concerning children and youths, but remains concerned that this policy does not address all the rights of children, especially the younger child, as recognized in the Convention.

14. **The Committee recommends that the State party prepare and implement a comprehensive national plan of action for the implementation of the Convention, undertaken through an open, consultative and participatory process. This national plan of action should adopt a rights-based approach and not be limited to protection and welfare. In addition, the Committee recommends that equal attention should be paid both to young and older children. Finally, the Committee recommends that the State party make use of child-impact assessments in the formulation of legislation, budgets and policies.**

Monitoring structures

15. The Committee notes the establishment of mediators in a number of cantons and of mechanisms specialized in children's issues in a number of cantons and cities. The Committee also notes that there have been a number of parliamentary motions for the establishment of a federal national human rights institution. However, the Committee is concerned that there is no central independent mechanism to monitor the implementation of the Convention and which is empowered to receive and address individual complaints of children at the cantonal and federal levels.

16. **The Committee recommends that the State party establish a federal independent human rights institution in accordance with the Principles relating to the status of national institutions for the promotion and protection of human rights (General Assembly resolution 48/134) to monitor and evaluate progress in the implementation of the**

Convention. It should be accessible to children, empowered to receive and investigate complaints of violations of child rights in a child-sensitive manner, and address them effectively.

Data collection

17. The Committee notes the measures under way to improve data collection, notably through the National Research Programme. However, the Committee remains concerned that age-brackets used by statistics - notably the national census - do not conform to the definition of the child as set out in the Convention and that not all areas of the Convention are covered.

18. **The Committee recommends that the State party collect disaggregated data on all persons under 18 years for all areas of the Convention, with specific emphasis on those who are particularly vulnerable and on fields which are not yet covered by current data, and use this data to assess progress and design policies to implement the Convention.**

Training/dissemination of the Convention

19. The Committee welcomes information that the State party will publish its initial report with the concluding observations, together with a summary of the report. However, the Committee is concerned that the Convention has not been translated into the fourth national language of the State party, namely Romansh, and that dissemination, awareness-raising and training activities are not always undertaken in a systematic and targeted manner.

20. **The Committee recommends that the State party:**

(a) Strengthen and continue its programme for the dissemination of information on the Convention and its implementation among children and parents, civil society, and all sectors and levels of Government, including initiatives to reach vulnerable groups, especially migrant and asylum-seeking children;

(b) Translate the Convention into Romansh;

(c) Develop and disseminate systematic and ongoing training programmes on human rights, including children's rights, for all professional groups working for and with children (e.g. federal and cantonal parliamentarians, judges, lawyers, law enforcement officials, civil servants, local government officials, personnel working in institutions and places of detention for children, teachers and health personnel).

2. General principles

Non-discrimination

21. While acknowledging the prohibition of discrimination in the Constitution (art. 8), the Committee is concerned at the de facto discrimination against foreign children and at incidents

of racial hatred and xenophobia that can have a negative effect on the development of children. The Committee is also concerned that some of the cantonal disparities in practices and services provided and in the enjoyment of rights by children may amount to discrimination.

22. **In light of article 2 and other related articles of the Convention, the Committee recommends that the State party carefully and regularly evaluate existing disparities in the enjoyment by children of their rights and undertake on the basis of that evaluation the necessary steps to prevent and combat discriminatory disparities. It also recommends that the State party strengthen its administrative measures to prevent and eliminate de facto discrimination against foreign children or children belonging to minorities.**

23. The Committee requests that specific information be included, in the next periodic report, on the measures and programmes relevant to the Convention on the Rights of the Child undertaken by the State party to follow-up on the Declaration and Programme of Action adopted at the 2001 World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, and taking account of general comment No. 1 on article 29, paragraph 1 (aims of education).

Best interests of the child

24. The Committee is concerned that the general principle of the best interests of the child (art. 3) is not fully applied and duly integrated in the implementation of the policies and programmes of the State party.

25. **The Committee recommends that the State party take all appropriate measures to ensure that the general principle of the best interests of the child is appropriately integrated in all legislation and budgets, as well as judicial and administrative decisions and in projects, programmes and services which have an impact on children.**

Respect for the views of the child

26. While welcoming article 11, paragraph 2, of the Constitution recognizing that the child can exercise his/her own rights in accordance with his/her maturity and the numerous legal provisions recognizing the right of the child to express his/her views, and noting the establishment of various Youth Parliaments at the cantonal or municipal levels, the Committee is still concerned that the general principle as laid down in article 12 of the Convention is not fully applied and duly integrated in practice into the implementation of the policies and programmes of the State party.

27. **The Committee recommends that further efforts be made to ensure the implementation of the principle of respect for the views of the child. In this connection, particular emphasis should be placed on the right of every child to participate in the family, at school, within other institutions and bodies, and in society at large, with special attention to vulnerable groups. This general principle should also be reflected in all**

policies and programmes relating to children. Awareness-raising among the public at large as well as education and training of professionals on the implementation of this principle should be reinforced.

3. Civil rights and freedoms

The right to know one's identity

28. The Committee notes that, according to article 27 of the Law on Medically Assisted Procreation, a child can be informed of the identity of his/her father only if he/she has a "legitimate interest" and is concerned at the meaning of "legitimate interest" in that regard.

29. **In light of article 7 of the Convention, the Committee recommends that the State party ensure, as far as possible, respect for the child's right to know his or her parents' identities.**

Torture and ill-treatment

30. The Committee is deeply concerned about allegations of instances of ill-treatment by law enforcement officers against foreign children and at the prevalence of abuse.

31. **The Committee endorses the recommendations made by the Committee against Torture in that regard (A/53/44, para. 94) and, in light of article 37 of the Convention, recommends that the State party:**

(a) Set up child-sensitive mechanisms in all cantons to receive complaints against law-enforcement officers regarding ill-treatment during arrest, questioning and police custody; and

(b) Systematically train the police force on the human rights of children.

Corporal punishment

32. While noting that corporal punishment is prohibited in schools, the Committee is concerned that according to the jurisprudence of the Federal Tribunal, corporal punishment is not considered as physical violence if it does not exceed the level generally accepted by society. In addition, the Committee is concerned that corporal punishment within the family is not prohibited under law.

33. **The Committee recommends that the State party explicitly prohibit all practices of corporal punishment in the family, schools and in institutions and conduct information campaigns targeting, among others, parents, children, law enforcement**

and judicial officials and teachers, explaining children's rights in this regard and encouraging the use of alternative forms of discipline in a manner consistent with the child's human dignity and in conformity with the Convention, especially articles 19 and 28, paragraph 2.

4. Family environment and alternative care

Childcare services for children of working parents

34. While welcoming a parliamentary initiative to increase the number of childcare facilities, the Committee notes with concern that according to information provided by the State party (CRC/C/78/Add.3, para. 481), the existing offer of childcare services is far from meeting the needs.

35. **In light of article 18, paragraph 3, of the Convention, the Committee recommends that the State party:**

(a) Take measures to establish more childcare services to meet the needs of working parents; and

(b) Ensure that the childcare services provided promote early childhood development, in light of the principles and provisions of the Convention.

Adoption

36. The Committee welcomes the entry into force of article 268 (c) of the Civil Code which will allow adopted children to know their biological parents, and the ratification process, expected to be completed in 2003, of the Hague Convention on Protection of Children and Cooperation in respect of Intercountry Adoption of 29 May 1993. However, the Committee remains concerned that children adopted abroad must wait two years before being formally adopted, which can lead to discrimination and statelessness. In addition, the Committee is concerned that, because of the inadequate follow-up, cases of ill-treatment of children by adoptive parents have been reported.

37. **The Committee recommends that the State party take the necessary measures to avoid children adopted abroad becoming stateless or discriminated against because of the time between their arrival in the State party and their formal adoption. In addition, the Committee further suggests that the State party systematically review the conditions of these children by means of an adequate follow-up with a view to eliminating ill-treatment and violations of their rights.**

Abuse and neglect/violence

38. While welcoming the numerous initiatives to tackle violence against children in the family, schools and sports, the Committee remains concerned at the lack of comprehensive data and information on child abuse and/or neglect.

39. **In light of article 19, the Committee recommends that the State party:**

(a) Undertake studies on violence, ill-treatment and abuse against children, especially vulnerable groups of children and, including sexual abuse, particularly within the family, and bullying in schools in order to assess the extent, scope and nature of these practices;

(b) Develop awareness-raising campaigns with the involvement of children in order to prevent and combat child abuse;

(c) Evaluate the work of existing structures and provide training to the professionals involved in these types of cases; and

(d) Investigate effectively cases of domestic violence and ill-treatment and abuse of children, including sexual abuse, within the family through a child-sensitive inquiry and judicial procedure, in order to ensure better protection of child victims, including of their right to privacy.

5. Basic health and welfare

Adolescent health

40. While taking into account the advanced health care system, the very low infant mortality rate and the decrease in HIV/AIDS prevalence, the Committee is nevertheless concerned about the high number of suicides among adolescents and the limited measures to prevent this phenomenon, and the insufficient access by adolescents to counselling services, including outside schools. In addition, the Committee is concerned at the high and increasing, prevalence - notably among girls - of alcohol and tobacco use. Moreover, while noting that the fatality rate is decreasing, the Committee is still concerned at the high number of children who die or are injured in road traffic accidents. Finally, the Committee is concerned at cases of female genital mutilation performed abroad.

41. **The Committee recommends that the State party:**

(a) Pursue its efforts to decrease the prevalence of HIV/AIDS and take all necessary measures to prevent suicides among adolescents, including the collection and analysis of information, the launching of awareness-raising campaigns, and the establishment of specific programmes and counselling services;

(b) Increase its efforts to promote adolescent health policies, particularly with respect to alcohol consumption and tobacco use;

(c) Pursue its efforts to decrease the number of child victims of road traffic accidents; and

(d) Develop awareness campaigns targeted at the relevant population to put an end to the practice of female genital mutilation and to conduct a comprehensive study on this issue.

Children with disabilities

42. While welcoming the fact that the Constitution prohibits discrimination on the basis of disability (art. 8), the Committee remains concerned at the lack of statistics regarding children with disabilities and the lack of uniform practices for integrating these children in mainstream education in the various cantons. In addition, the Committee is concerned at the distinction made between children born with disability and children who become disabled as far as home care is concerned (ibid., para. 39).

43. **The Committee recommends that the State party:**

(a) Reinforce the collection of data regarding children with disabilities;

(b) Undertake an assessment of the existing disparities in the integration of disabled children in mainstream education across the country and take all necessary measures to eliminate these differences which may amount to discrimination;

(c) Review its home care support system in order to eliminate de facto discrimination between children born with disability and children who become disabled as a result of disease or an accident.

Health insurance

44. The Committee takes note of the ongoing reform of the social security system but remains concerned that the cost of social insurance and health is very high, which may affect low-income families.

45. **The Committee endorses the concluding observations of the Committee on Economic, Social, and Cultural Rights (E/C.12/1/Add.30, para. 36) and recommends that the State party review its health insurance systems in order to lower the cost of health services, for example, by reducing premiums.**

Standard of living/social welfare

46. While noting the economic wealth and high standard of living in the State party, the Committee is concerned that 5.6 per cent of the population is affected by poverty, and that, according to information provided by the State party (Eléments d'une politique suisse de l'enfance et de la jeunesse), young families, single-parent families and families with many children are the most affected. In addition, the Committee is concerned that the family allowances or benefits vary according to canton and depend on the recipient's being gainfully employed.

47. **The Committee recommends that the State party take all appropriate measures to prevent poverty in light of the principles and provisions of the Convention, especially its articles 2, 3, 6, 26 and 27, and that it review its system of family allowances and benefits, taking due account of the means-testing system, especially for families without gainful employment and self-employed families.**

6. Education

48. The Committee is concerned at the lack of information about how the aims of education, especially human rights education, are reflected in the school curricula in all the cantons of the State party, in light of article 29 of the Convention and the Committee's general comment No. 1 on the aims of education.

49. **The Committee recommends that the State party provide information in its next report on how the aims of education have been reflected in the curricula at the cantonal level.**

7. Special protection measures

Refugee, asylum-seeking and unaccompanied children

50. While welcoming the entry into force of the federal asylum legislation (Federal Asylum Act and Ordinance 1 on Asylum Procedure) on 1 October 1999, the Committee remains concerned that the procedure used for unaccompanied minors is not always in their best interests nor fully in line with relevant provisions of the Convention. In addition, in relation to the reservation made to article 10 of the Convention, the Committee is concerned that the right to family reunification is too restricted.

51. **The Committee recommends that the State party simplify its approach regarding the procedures for requesting asylum and take all necessary measures to expedite them and to ensure they take into account the special needs and requirements of children, in particular unaccompanied children; these include the designation of a legal representative, the placement of such children in centres, and their access to health care and education. In addition, the Committee recommends that the State party review its system for family reunification, notably for refugees who stay for a long period in the State party.**

Sexual exploitation and sexual abuse

52. While welcoming the amendments to the Penal Code prohibiting the possession of hard-core pornography, including child pornography, and the establishment of a new centre against cyber-crime in 2003, the Committee remains concerned at the lack of knowledge about the extent of sexual exploitation of children, in particular vulnerable groups, in the State party.

53. **In light of article 34 and other related articles of the Convention, the Committee recommends that the State party undertake studies with a view to assessing the extent of sexual exploitation and trafficking of children, including prostitution and child pornography (including on the Internet), and implement appropriate policies and**

programmes for prevention and for the recovery and social reintegration of child victims, in accordance with the 1996 Declaration and Agenda for Action and the 2001 Global Commitment adopted at the World Congresses against Commercial Sexual Exploitation of Children.

Drug abuse

54. While noting the current policy of the State party to prevent and fight drug use by adolescents, the Committee is concerned at the increasing use and sale of illegal drugs among adolescents.

55. **The Committee recommends that the State party pursue its awareness-raising and preventive measures, including awareness raising of the danger of drugs in schools. It further recommends that the State party allocate more resources to the child welfare service system for prevention, treatment therapies and services for recovery and social reintegration specifically tailored for children and adolescents.**

Administration of juvenile justice

56. The Committee welcomes the ongoing discussion on the federal bill on the criminal status of minors, the federal bill on criminal procedures applicable to minors and on the amendment to the Federal Act concerning Judicial Organization, but remains concerned at the very low age of criminal responsibility (7 years) and considers that the new proposed age of criminal responsibility, namely 10 years, is still too low. In addition, the Committee is concerned at the lack of provisions regarding legal assistance during pre-trial detention in some cantons and at the failure to separate children from adults in pre-trial detention and imprisonment.

57. **The Committee recommends that the State party take additional steps to reform legislation and the system of juvenile justice in line with the Convention, in particular articles 37, 40 and 39, and other United Nations standards in the field of juvenile justice, including the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules), the United Nations Guidelines for the Prevention of Juvenile Delinquency (the Riyadh Guidelines), the United Nations Rules for the Protection of Juveniles Deprived of Their Liberty, and the Vienna Guidelines for Action on Children in the Criminal Justice System.**

58. **As part of this reform, the Committee particularly recommends that the State party:**

(a) Raise the minimum age for criminal responsibility to above 10 years and amend accordingly the federal bill on the criminal status of minors;

(b) Systematize the provision of legal assistance to all children in pre-trial detention;

(c) Separate children from adults in pre-trial detention or detention;

(d) Introduce systematic training programmes on relevant international standards for all professionals involved with the system of juvenile justice;

(e) Take into consideration the deliberations of the Committee during its day of general discussion on juvenile justice (CRC/C/46, paras. 203-238).

Children belonging to a minority group

59. The Committee is concerned at the lack of information on Roma and Travellers and their children in the State party and that there is no policy for these children.

60. **The Committee recommends that the State party undertake a study on children belonging to the Roma and Traveller minorities to assess their situation and develop policies and programmes to prevent social exclusion and discrimination, and to allow these children to fully enjoy their rights, including access to education and health care.**

8. Optional Protocols to the Convention

61. **The Committee encourages the State party to ratify and implement the Optional Protocols to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, and on the involvement of children in armed conflict.**

9. Dissemination of documentation

62. **Finally, the Committee recommends that, in light of article 44, paragraph 6, of the Convention, the initial report and written replies presented by the State party be made widely available to the public at large and that the publication of the report be considered, along with the relevant summary records and the concluding observations adopted by the Committee. In addition, the Committee recommends that the State party also make widely available the summary of the State party report which they have produced. Such a document should be widely distributed in order to generate debate and awareness of the Convention and its implementation and monitoring within the Government and the general public, including NGOs.**

UNITED
NATIONS

CRC

Convention on the
Rights of the Child

Distr.
GENERAL

CRC/C/15/Add.183
13 June 2002

Original: ENGLISH

COMMITTEE ON THE RIGHTS OF THE CHILD

Thirtieth Session

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 44 OF THE CONVENTION

Concluding observations of the Committee on the Rights of the Child: United Arab Emirates

1. At its 794th and 795th meetings (see CRC/C/SR.794 and 795), held on 31 May 2002, the Committee on the Rights of the Child considered the initial report of the United Arab Emirates (CRC/C/78/Add.2), and adopted* the following concluding observations.

A. Introduction

2. The Committee regrets that the report does not follow the guidelines for reporting. Information has not been provided on the general measures of implementation, and there are significant gaps in information relating to rights such as non-discrimination and protection from economic exploitation. However, the Committee appreciates the informative written replies which were submitted and the presence of a cross-sectoral delegation, which contributed to a better understanding of the process of implementation of the Convention.

B. Positive aspects

3. The Committee welcomes:

(a) The establishment of the Sharjah Supreme Council for the Family;

(b) The establishment of a committee on the Convention on the Rights of the Child;

* At the 804th meeting, held on 7 June 2002.

(c) The creation of the Children's City;

(d) The establishment of a children's parliament in Sharjah;

(e) Information on the State party's participation in regional meetings on the implementation of the Convention;

(f) The dissemination of the UNESCO Passport to Equality, concerning non-discrimination of women, to several schools in the country;

(g) The State party's significant efforts in promoting the inclusion of disabled children in society;

(h) The State party's participation in international development assistance programmes.

C. Factors and difficulties impeding the implementation of the Convention

4. Noting the universal values of equality and tolerance inherent in Islam, the Committee observes that the State party's narrow interpretations of Islamic texts, particularly in areas relating to personal status law, may impede the enjoyment of some human rights protected under the Convention.

D. Principal subjects of concern and recommendations

1. General measures of implementation

Reservations

5. The Committee welcomes information by the delegation that the reservation to article 21 will be withdrawn. However, the Committee is concerned about the remaining reservations to the Convention entered by the State party. In particular:

(a) That the exercise of the rights in articles 7 and 17 are subject to their compatibility with domestic law; and

(b) That the broad and imprecise nature of the reservation to article 14 potentially gives rise to infringements of the freedoms of thought, conscience and religion.

6. **The Committee emphasizes that it is long established in international law that States parties to a treaty cannot invoke provisions of their domestic laws as justification for their inability to perform obligations under a treaty. The Committee recommends that the State party:**

(a) Withdraw its reservations to articles 7 and 21; and

(b) Study its reservation to article 14 with a view to narrowing it, taking account of the Human Rights Committee's general comment No. 22 and in the long term, to withdraw it in accordance with the Vienna Declaration and Programme of Action of the World Conference on Human Rights (1993).

Legislation

7. The Committee welcomes information concerning draft laws (i.e. the Child Protection Act, the Disabled Persons' Act and the Juvenile Delinquency Act). However, it is concerned that several rights contained in the Convention (such as non-discrimination) are not adequately reflected in domestic law. It is also concerned that with respect to the enjoyment of children's rights throughout the State party, the application of different laws governing different legal jurisdictions may lead to discrimination. In particular, the Committee is concerned that:

(a) Gaps in federal and local legislation may result in irregularities and disparities in the outcomes of the judicial process;

(b) Discrepancies may occur between Shariah judges' decisions, and between Shariah court decisions and decisions of other types of courts in the State party;

(c) Personal status law remains uncodified;

(d) Shariah courts are not regulated by uniform procedural rules, including in the area of criminal matters; and

(e) In Shariah courts federal and local laws are considered as secondary sources, and Shariah judges allegedly do not follow Supreme Court interpretation of United Arab Emirates law.

8. **The Committee recommends that the State party:**

(a) Conduct a comprehensive review of its domestic laws, including customary laws, administrative regulations and legal procedural rules, to ensure that they conform to international human rights standards, including the Convention;

(b) Ensure the speedy promulgation of legislation relating to child rights and its effective implementation; and

(c) Ensure that laws are sufficiently clear and precise, are published, and are accessible to the public.

Coordination

9. The Committee is concerned that the absence of a central mechanism to coordinate the implementation of the Convention in the State party makes it difficult to achieve a comprehensive and coherent child rights policy.

10. **The Committee recommends that the State party:**

(a) Establish a central mechanism by strengthening the role of the national committee for the Convention on the Rights of the Child in intersectoral coordination and cooperation at and between national and local levels of government; and

(b) Ensure the preparation and implementation of a national plan of action for children, including the implementation of the Convention, which is comprehensive, human rights based and undertaken through an open, consultative and participatory process.

Data collection

11. The Committee welcomes information on statistics provided in the written replies, and notes the statistics available from the Ministry of Planning's web site.

12. **The Committee recommends that the State party:**

(a) Establish a system such that disaggregated data are collected on all persons under 18 years for all areas covered by the Convention, including the most vulnerable groups (i.e. non-nationals, children living in remote areas, children with disabilities, children of economically disadvantaged households, etc.), and use these data to assess progress and design policies to implement the Convention; and

(b) Seek technical assistance from, among others, UNICEF.

Monitoring structures

13. The Committee is concerned at the absence of an independent mechanism with the mandate to regularly monitor and evaluate the progress in the implementation of the Convention, and which is empowered to receive and address complaints.

14. **The Committee recommends that the State party:**

(a) Establish an independent national human rights institution in accordance with the Principles relating to the status of national institutions for the promotion and protection of human rights (General Assembly resolution 48/134) to monitor and evaluate progress in the implementation of the Convention at the national and at the local levels. This institution should be accessible to children and empowered to receive and investigate complaints of violations of child rights in a child-sensitive manner and to address them effectively; and

(b) Seek technical assistance from, among others, OHCHR and UNICEF.

Resource allocation

15. The Committee notes significant investment in and increased budgetary allocations for health, education and other parts of the social sector. However, it is concerned that insufficient attention has been given to the allocation of resources for programmes and policies to promote the civil and political rights of children.

16. **The Committee recommends that the State party:**

(a) Strengthen its efforts to allocate resources for programmes and policies to promote the civil and political rights of children; and

(b) Systematically assess the impact of budgetary allocations on the implementation of child rights.

Cooperation with civil society

17. The Committee notes information on good government cooperation with national associations in the development and welfare sectors, but it is concerned that insufficient efforts have been made to involve civil society, particularly in the area of civil rights and freedoms, in the implementation of the Convention.

18. **The Committee recommends that the State party:**

(a) Consider a systematic approach to involving civil society, especially children's associations, throughout all stages in the implementation of the Convention, including with respect to civil rights and freedoms; and

(b) Ensure that legislation regulating NGOs conforms to article 15 of the Convention and other international standards on freedom of association, as a step in facilitating and strengthening their participation.

Training/dissemination of the Convention

19. The Committee is concerned that awareness of the Convention amongst professionals working with and for children and the general public, including children themselves, remains low. The Committee is concerned that the State party is not undertaking adequate dissemination, awareness-raising and training activities in a systematic and targeted manner.

20. **The Committee recommends that the State party:**

(a) Strengthen, expand and continue its programme for the dissemination of information on the Convention and its implementation among children and parents, civil society and all sectors and levels of Government, including initiatives to reach those vulnerable groups who are illiterate or without formal education;

(b) Develop systematic and ongoing training programmes on human rights, including children's rights, for all professional groups working for and with children (e.g. judges, lawyers, law enforcement officials, civil servants, local government officials, personnel working in institutions and places of detention for children, teachers and health personnel); and

(c) Seek assistance from, among others, OHCHR and UNICEF.

2. General principles

Non-discrimination

21. Noting the significant achievements in the status of women, the Committee is nevertheless concerned that discrimination, contrary to article 2 of the Convention, persists in the State party. In particular, the Committee is concerned about discrimination against girls and women, and children born out of wedlock under existing personal status law (e.g. inheritance, custody and guardianship).

22. **In accordance with article 2 of the Convention, the Committee recommends that the State party:**

(a) Take effective measures, including enacting or rescinding legislation where necessary, to prevent and eliminate discrimination on grounds of sex and birth in all fields of civil, economic, political, social and cultural life;

(b) Undertake all possible measures to reconcile the interpretation of Islamic texts with fundamental human rights;

(c) Take all appropriate measures, such as comprehensive public education campaigns, to prevent and combat negative societal attitudes in this regard, particularly within the family;

(d) Train members of the legal profession, especially the judiciary, to be gender sensitive. Religious leaders should be mobilized to support such efforts; and

(e) To continue and strengthen efforts to address these issues at the regional level, such as the Gulf Cooperation Council.

23. The Committee is concerned at the disparities in the enjoyment of economic and social rights, particularly to health and education, experienced by non-national children.

24. **The Committee recommends that the State party:**

(a) Take all necessary measures to ensure that all children within its jurisdiction enjoy all the rights set out in the Convention without discrimination, in accordance with article 2; and

(b) Consider ratifying the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

25. **The Committee requests that specific information be included in the next periodic report on the measures and programmes relevant to the Convention on the Rights of the Child undertaken by the State party to follow up on the Declaration and Programme of Action adopted at the 2001 World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, and taking account of general comment No. 1 on article 29, paragraph 1, of the Convention (aims of education).**

Best interests of the child

26. The Committee is concerned that in actions concerning children, the general principle of the best interests of the child contained in article 3 of the Convention is not always a primary consideration, such as in matters relating to family law.

27. **The Committee recommends that the State party review its legislation and administrative measures to ensure that article 3 of the Convention is duly reflected therein and that this principle is taken into account when administrative, policy, court or other decisions are made.**

Respect for the views of the child

28. The Committee notes information on the existence of a children's parliament in Sharjah, student councils at secondary schools, as well as social service units, which deal with complaints about student behaviour. However, it is concerned that traditional attitudes towards children in society may limit the respect for their views, especially within the family and in schools. In particular, it is concerned that children are not adequately informed about how to have input into policies that affect them, nor about how their views will be taken into consideration once they have been solicited, and that sufficient attention has not been accorded to the participation of primary and secondary students in school governance, including in areas such as school regulations and management of discipline.

29. **The Committee recommends that the State party:**

(a) Continue to promote and facilitate, within the family, the school, institutions, the courts, and administrative bodies, respect for the views of children and their participation in all matters affecting them, in accordance with article 12 of the Convention;

(b) Strengthen the mandate of the social service units to allow students to submit complaints about violations of their rights in the school setting;

(c) Develop skills-training programmes in community settings for parents, teachers, social workers and local officials to support children to express their informed views and opinions and to have them taken into consideration; and

(d) Seek assistance from, among others, UNICEF.

3. Civil rights and freedoms

Nationality

30. The Committee is concerned that the nationality law does not grant citizenship status to children of a woman citizen of the Emirates married to a non-national, as it does where the father is a national of the Emirates.

31. **The Committee recommends that the State party ensure the right of a child to a nationality without discriminating on the basis of his or her parent's sex, in accordance with articles 2 and 7 of the Convention.**

Protection from torture and inhuman or degrading treatment or punishment

32. Contrary to article 37 (a) of the Convention, the Committee is seriously concerned that there is a possibility that persons under 18 may be subjected to judicial sanctions such as flogging.

33. **The Committee recommends that the State party take immediate steps to abolish the imposition of flogging and other forms of cruel, inhuman or degrading treatment and punishment to persons who have committed crimes when they were under 18.**

4. Family environment and alternative care

Violence/abuse/neglect/maltreatment

34. The Committee is concerned that there is insufficient information and awareness of the ill-treatment of children, including corporal punishment, within the family, schools and institutions.

35. **The Committee recommends that the State party:**

(a) Conduct a study to assess the nature and extent of ill-treatment and abuse of children, and design policies and programmes to address it;

(b) Take legislative measures to prohibit all forms of physical and mental violence, including corporal punishment and sexual abuse of children in the family, schools and in institutions;

(c) Carry out public education campaigns about the negative consequences of ill-treatment of children and promote positive, non-violent forms of discipline as an alternative to corporal punishment;

(d) Establish effective procedures and mechanisms to receive, monitor and investigate complaints, including intervening where necessary;

(e) Investigate and prosecute instances of ill-treatment, ensuring that the abused child is not victimized in legal proceedings and that his/her privacy is protected;

(f) Provide care, recovery and reintegration for victims;

(g) Train teachers, law enforcement officials, care workers, judges and health professionals in the identification, reporting and management of cases of ill-treatment; and

(h) Seek assistance from, among others, UNICEF and WHO.

5. Health

Adolescent health

36. The Committee is concerned at insufficient information available in relation to adolescent health, such as access to reproductive health services and mental health counselling services.

37. **The Committee recommends that the State party:**

(a) Ensure that adolescents have access to and are provided with education on reproductive health and other adolescent health issues, as well as with child-sensitive and confidential counselling services;

(b) Strengthen efforts in the area of adolescent health education within the school system; and

(c) Seek assistance from, among others, UNICEF and WHO.

6. Education

Education

38. The Committee is concerned that the aims of education presented in the report do not adequately reflect the aims outlined in article 29 of the Convention, and in particular that:

(a) The system of public education continues to emphasize rote learning rather than analytical skills development, and is not child-centred;

(b) The choice of some preparatory, secondary and higher education programmes may be restricted for girls; and

(c) The development and respect for human rights, tolerance and equality of the sexes and religious and ethnic minorities is not explicitly part of the curricula.

39. **The Committee recommends that the State party, taking into account the Committee's general comment No. 1 on the aims of education:**

(a) Undertake a process of curriculum and teaching methodology reform - with the full participation of children - which stresses the importance of critical thinking and problem-solving skills development;

(b) Direct education towards the development of the child's personality, talents and mental and physical abilities to their fullest potential;

(c) Include human rights education, including children's rights, in the curricula, particularly with respect to the development of and respect for human rights, tolerance and equality of the sexes and of religious and ethnic minorities; and

(d) Seek assistance from, among others, UNICEF and UNESCO.

7. Special measures of protection

Economic exploitation

40. Despite noting some efforts by the State party, the Committee is seriously concerned at the hazardous situation of children involved in camel racing. In particular, it is concerned that very young children are sometimes involved; that children are trafficked, particularly from Africa and South Asia, for this purpose; that children are denied education and health care; and that such involvement produces serious injuries, even fatalities. It concurs with the ILO Committee of Experts on the Application of Conventions and Recommendations, which has previously indicated to the State party that the employment of children as camel jockeys constitutes dangerous work under article 3, paragraph 1, of ILO Convention No. 138.

41. **In accordance with article 32 of the Convention and ILO Conventions Nos. 138 and 182, which the State party has ratified, the Committee recommends that the State party:**

(a) Take immediate and effective steps to ensure the implementation of article 32 of the Convention on the Rights of the Child and ILO Convention Nos. 138 and 182, taking into account ILO Recommendations Nos. 146 and 190;

(b) Undertake awareness-raising campaigns on trafficking in countries of origin and strengthen cooperation with those countries;

(c) Undertake a regional initiative (e.g. through the Gulf Cooperation Council) in this regard, including bilateral and multilateral cooperation; and

(d) Seek assistance from ILO and UNICEF.

Administration of juvenile justice

42. Noting with appreciation measures to reform the administration of juvenile justice, the Committee is nevertheless concerned that the age of criminal responsibility of 7 years is too low, and that persons under 18 may be prosecuted for crimes in the same manner as adults (i.e. without special procedures), and be subjected to the same penalties as adults.

43. **The Committee recommends that the State party:**

(a) Raise the minimum age of criminal responsibility in accordance with the principles and provisions of the Convention;

(b) Ensure that its system of juvenile justice includes the establishment of juvenile courts and that it fully integrates the provisions of the Convention, in particular articles 37, 39 and 40, as well as with other relevant international standards in this area, such as the Beijing Rules, the Riyadh Guidelines, the United Nations Rules for the Protection of Juveniles Deprived of their Liberty, and the Guidelines for Action on Children in the Criminal Justice System;

(c) Expedite the promulgation of the draft juvenile justice law, ensuring that it is applicable to all persons under 18 and that adequate resources are allocated for its effective implementation;

(d) Ensure that deprivation of liberty is only used as a measure of last resort, for the shortest possible time, is authorized by the court, and that persons under 18 are not detained with adults;

(e) Ensure that children have access to legal aid and independent and effective complaints mechanisms;

(f) Consider alternative measures to deprivation of liberty, such as probation, community service or suspended sentences;

(g) Train professionals in the area of rehabilitation and social recovery of children; and

(h) Seek assistance from, among others, the OHCHR, the Centre for International Crime Prevention, the International Network on Juvenile Justice and UNICEF, through the Coordination Panel on Technical Advice and Assistance on Juvenile Justice.

8. Optional Protocols

44. **The Committee encourages the State party to ratify the Optional Protocols to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, and on the involvement of children in armed conflict.**

9. Dissemination of documentation

45. **Finally, the Committee recommends that in accordance with article 44, paragraph 6, of the Convention, the initial report presented by the State party be made widely available to the public at large and that consideration be given to the publication of the report along with the written answers to the list of issues raised by the Committee, the relevant summary records of the discussion and the concluding observations adopted by the Committee following its consideration of the report. Such a document should be widely distributed in order to generate debate and awareness of the Convention and its implementation and monitoring within the Government, the parliament and the general public, including concerned non-governmental organizations.**

UNITED
NATIONS

CRC

Convention on the
Rights of the Child

Distr.
GENERAL

CRC/C/15/Add.184
13 June 2002

Original: ENGLISH

COMMITTEE ON THE RIGHTS OF THE CHILD

Thirtieth session

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 44 OF THE CONVENTION

Concluding Observations of the Committee on the Rights of the Child: St. Vincent and the Grenadines

A. Introduction

1. The Committee considered the initial report of Saint Vincent and the Grenadines (CRC/C/28/Add.18) at its 796th and 797th meetings (see CRC/C/SR.796-797), held on 2 June 2002, and adopted* the following concluding observations.

2. The Committee welcomes the submission of the State party's initial report and the written replies to its list of issues (CRC/C/Q/SVG/1). The Committee notes the constructive dialogue it had with the State party's high-level delegation.

B. Positive factors

3. The Committee welcomes the strengthening of the State party's health-care infrastructure.

4. The Committee welcomes:

(a) The State party's abolition of the death penalty for all persons below age 18;

* At the 804th meeting, held on 7 June 2002.

(b) The setting up of a family court under the Domestic Violence Act of 1995 to deal specifically and speedily with cases of domestic violence;

(c) The programme to strengthen parental skills and empower the family.

5. The Committee notes, in addition, the State party's good cooperation with NGOs.

C. Factors and difficulties impeding the implementation of the Convention

6. The Committee notes:

(a) The difficult geographic and demographic conditions of the State party;

(b) That difficult socio-economic conditions place limitations upon the State party's financial and human resources;

(c) That severe unemployment has led to high emigration, leaving many single parent and grandparent headed households;

(d) That poverty and long-standing economic and social disparities have a negative impact on respect for the rights of individual children.

D. Subjects of concern and the Committee's recommendations

1. General measures of implementation (arts. 4, 42 and 44, para. 6 of the Convention)

Legislation

7. While noting that the State party has begun, within the framework of the Organization of Eastern Caribbean States (OECS), a process of harmonizing its legislation with regard to children and the family, the Committee is nevertheless concerned that this process is slow, that some existing legislation is outdated and does not fully take into consideration the Convention's principles and provisions, and that there has not been a general review of legislation of direct relevance to children since before the State party ratified the Convention.

8. **The Committee recommends that the State party:**

(a) Continue and strengthen its ongoing efforts to conduct a general review of the conformity of its legislation with the principles and provisions of the Convention;

(b) Where needed, amend existing legislation or adopt new legislation with a view to strengthening the legislative framework for the implementation of the Convention and, in this context, make every effort to proceed with the OECS (and partners') programme for the harmonization of laws relating to families and children (as described in the replies to the list of issues);

(c) Proceed with the commitment, as mentioned by the delegation, to consider the adoption by Parliament of a rights-based children's code, compiling the main elements of domestic legislation of direct relevance to children and incorporating the provisions and principles of the Convention, including the best interests principle;

(d) Seek technical assistance from UNICEF and OHCHR.

Implementation, coordination, national plan of action and monitoring

9. While noting the establishment of the National Committee on the Rights of the Child, the adoption of the National Youth Policy, that the Ministry of Social Development, Cooperation, the Family, Gender and Ecclesiastical Affairs is the institution charged with ensuring the coordination of governmental bodies working to implement the Convention, and the State party's adoption of a new programme of action in cooperation with UNICEF for the period 2003-2008 with a set of defined priorities, the Committee remains concerned that:

(a) The State party lacks a clearly defined and comprehensive child rights policy and plan of action for implementation of the Convention;

(b) Coordination of implementation of the Convention between different government ministries remains insufficient;

(c) There is no effective independent mechanism which can receive and act upon complaints of child rights violations, including complaints from children.

10. **The Committee recommends that the State party:**

(a) With a view to integrating the child rights perspective of the Convention into all relevant programmes and activities, strengthen its children's rights policy and develop a national plan of action for the implementation of the Convention, ensuring that it is prepared through an open, consultative and participatory process;

(b) Strengthen the coordination of State party efforts to implement the Convention, including through strengthening the resources of those organs with a coordinating role and through the use of multisectoral programmes;

(c) Establish an independent structure to receive complaints of violations of children's rights which has the authority and capacity to receive and investigate individual complaints in a child-sensitive manner and address them effectively, such as through empowerment of the National Human Rights Association;

(d) Seek technical assistance from UNICEF and OHCHR.

Resources for children

11. The Committee is concerned that the State party has not fully complied with the provisions of article 4 of the Convention in terms of the allocation of resources for the implementation of the Convention.

12. **With a view to strengthening its implementation of article 4 of the Convention, and in the light of articles 2, 3, and 6, the Committee recommends that the State party prioritize budgetary allocations to ensure implementation of the rights of children, to the maximum extent of available resources and, where needed, within the framework of international cooperation.**

Data collection

13. The Committee joins the State party (as indicated in the replies to the list of issues) in expressing concern at the lack of an adequate data collection mechanism and the absence of up-to-date, comprehensive and accurate data.

14. **The Committee urges the State party to:**

(a) Establish an effective mechanism for the systematic collection of disaggregated quantitative and qualitative data incorporating all the areas covered by the Convention and covering all children below the age of 18 years;

(b) Make use of indicators and data in the formulation of policies and programmes for the effective implementation of the Convention;

(c) Seek technical assistance from, inter alia, UNICEF.

Dissemination of the Convention

15. Noting the efforts made, including through annual celebration of the month of May as the Month of the Child, and with the strong involvement of NGOs, the Committee remains concerned that additional progress needs to be made by the State party with regard to dissemination of the Convention.

16. **The Committee recommends that the State party:**

(a) Strengthen its efforts to disseminate the principles and provisions of the Convention, as a means of sensitizing society on children's rights;

(b) Undertake systematic education and training on the provisions of the Convention for all professional groups working for and with children, in particular administrative personnel, parliamentarians, judges, lawyers, law enforcement officials, civil servants, municipal and local workers, relevant personnel working in institutions and places of detention, teachers and health personnel, including psychologists and paediatricians, and social workers;

(c) Seek technical assistance from, inter alia, UNICEF.

2. Definition of the child (art. 1 of the Convention)

17. The Committee is concerned that:

(a) A variety of different ages and related terms are applied to children within the State party and that these can lead to confusion with regard to the implementation of the Convention;

(b) The difference in the minimum legal age of marriage for girls (15) and boys (16) is discriminatory and both ages are low.

18. **The Committee recommends that the State party:**

(a) Clarify the ages and terms applied to children;

(b) Raise the minimum legal age of marriage of girls to the one of boys (16).

3. General principles (arts. 2, 3, 6 and 12 of the Convention)

Discrimination

19. The Committee is concerned that:

(a) The Constitution of Saint Vincent and the Grenadines does not fully reflect the provisions of article 2 of the Convention and, in particular, does not specifically prohibit discrimination on the grounds of language, national, ethnic or social origin, property, disability, birth or other status;

(b) With reference, inter alia, to the findings of the Committee on the Elimination of Racial Discrimination, there are occurrences of racial discrimination affecting children, including the children of some minorities, such as the Amerindians and Asians, who form a disproportionate proportion of the population with lower-income levels;

(c) Children with disabilities are de facto discriminated against by the absence of specific legislation to cater for their special needs and to provide them with appropriate facilities, and by the absence of effective policies and programmes to facilitate their integration into regular schools;

(d) Children who are known to be infected with HIV/AIDS are discriminated against at school by some teachers.

20. **The Committee recommends that the State party:**

(a) Amend its legislation, including the Constitution, to ensure that it fully corresponds with the provisions of article 2 of the Convention and to ensure the full implementation of non-discrimination provisions, giving special attention to children infected or affected by HIV/AIDS, to children with disabilities and to racial discrimination;

(b) Adopt legislation providing for the protection of the rights of children with disabilities, including with regard to the provision of special services and facilities for children in need of such support.

21. **The Committee requests that specific information be included in the next periodic report on the measures and programmes relevant to the Convention on the Rights of the Child undertaken by the State party to follow up on the Declaration and Programme of Action adopted at the 2001 World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, and taking account of General Comment No. 1 on article 29.1 of the Convention (aims of education).**

Best interests of the child

22. Noting the recognition of the best interests principle in the Adoption and Domestic Violence Acts, the Committee remains concerned that the principle is not fully recognized and implemented in other relevant legislation and in decisions relevant to children, including with regard to education and health.

23. **The Committee recommends that the State party ensure that the best interests principle is reflected in all relevant legislation, policies and programmes, and otherwise in the implementation of the Convention.**

Respect for the views of the child

24. While noting the State party's efforts to ensure child participation, including through a mock parliament and debates in school, the Committee remains concerned that children have limited opportunities in school, in courts, administrative processes or in the home to express their views.

25. **In the light of article 12 of the Convention, the Committee recommends that the State party ensure that children's views are given due consideration in courts, schools, relevant administrative and other processes concerning children and in the home through, inter alia, the adoption of appropriate legislation, the training of professionals working with and for children, and the use of information campaigns.**

4. Civil rights and freedoms (arts. 7, 8, 13-17 and 37 (a))

Name and nationality

26. The Committee is concerned that many children born out of wedlock do not know the identity of their father, inter alia, because of societal pressures that cause mothers to be reluctant to file a paternity action.

27. **Noting the supportive role that the Department of Family Services is already playing in this regard, the Committee recommends that the State party further facilitate and support the activities (including paternity procedures) which will contribute to the full implementation of the rights of children to know their parents.**

Ill-treatment and other forms of violence

28. The Committee is deeply concerned that corporal punishment is widely practised in schools, in the administration of justice, in other institutions and within the family, and that it is regulated by law and used against children from an early age.

29. **The Committee recommends that the State party urgently:**

(a) Prohibit through legislative and administrative provisions the use of corporal punishment in all contexts, including in schools, in the administration of justice, in other institutions and within the family;

(b) Make use of information and education campaigns to sensitize parents, professionals working with children and the public in general to the harm caused by corporal punishment and to the importance of alternative, non-violent, forms of discipline, as provided for in article 28.2 of the Convention.

5. Family environment and alternative care (arts. 5, 18 (paras. 1-2), 9-11, 19-21, 25, 27 (para. 4) and 39)

Family environment

30. Noting the assistance provided to families, inter alia, by the Public Assistance Board under the Ministry of Social Development and through the Ministries of Education and Health, the Committee remains concerned that:

(a) A large proportion of Vicentian families are living in poverty;

(b) The difficult domestic employment situation has obliged many parents, and sometimes both parents, to migrate, leaving children in the care of grandparents or under the responsibility of an older child;

(c) Almost half of all families are headed by women single parents and their related poverty places children in these families at particular risk of violations of their rights;

(d) Mothers are only able to claim child maintenance for a child aged over 5 if the claim process was initiated before the child reached the age of 5, and there are disparities between the child maintenance awards made to the children of unmarried mothers (domestic court) and married mothers (magistrates court).

31. **The Committee recommends that the State party:**

(a) Make every effort to provide support to children within the context of the family and consider, inter alia, means of improving employment prospects within the State party for parents;

(b) Give particular attention to the situation of children in single parent families, especially families headed by mothers, and to grandparent and child-headed families;

(c) Strengthen its efforts to secure child maintenance payments in adequate amounts, ensuring also that there are no disparities between those accorded to the children of married and unmarried mothers;

(d) Implement the recommendations made in paragraphs 238 to 240 of the State party's report;

(e) Consider ratifying the 1973 Hague Convention No. 23 on the Recognition and Enforcement of Decisions relating to Maintenance Obligations.

Alternative care

32. Acknowledging the State party's efforts to establish an adequate foster care service, the Committee is concerned that:

(a) There is no legislative basis for foster care procedures;

(b) The alternative care services for children who have been abandoned by, or who are otherwise separated from, their parents are not sufficient;

(c) In some instances of "adoption" (especially international adoption), children are handed over for money or with promises of financial assistance to those giving up the child.

33. **The Committee recommends that the State party:**

(a) Establish a legal basis for alternative care, including foster care;

(b) Make use of existing structures, urgently establish alternative care procedures which can provide support, including long-term solutions where needed, for children separated from their parents;

(c) Give particular attention to the possibility of abuse of adoption procedures for trafficking in children and consider, inter alia, strengthening monitoring of intercountry adoption and ratifying the 1993 Hague Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption;

(d) Seek assistance through international cooperation, including from UNICEF.

6. Basic health and welfare (arts. 6, 18 (para. 3), 23, 24, 26, 27 (paras. 1-3))

34. While noting the progress made in the area of child health care, including in the numbers of health centres established and their staffing levels, the Committee remains concerned at:

(a) The lack of basic medicines to meet the needs of sick children;

(b) Infant mortality rates;

(c) Levels of undernutrition;

(d) The gradual rise in obesity;

(e) The lack of an adequate number of dentists available to children.

35. **The Committee recommends that the State party:**

(a) Continue and strengthen its ongoing efforts to establish community health clinics in the countryside, and ensure that these and all other medical facilities are adequately stocked with appropriate basic medicines;

(b) Continue and strengthen efforts to reduce infant mortality and undernutrition and take preventive action to avoid a rise in the rates of obesity among children;

(c) Increase the numbers of dentists available to treat children.

Children with disabilities

36. The Committee is concerned that:

(a) The State party's statistics on the numbers of children with disabilities may be incomplete and, in particular, do not take into consideration those children who hardly ever leave their homes;

(b) Children with disabilities, including learning disabilities, are not integrated, as a matter of policy, into regular schools and that an insufficient number of teachers have received specialized training in this regard;

(c) Some children with disabilities are often obliged to remain at home and do not have access to many public buildings as a result of physical barriers such as stairs.

37. **In the context of the Committee's comments under section 3 of these concluding observations, and taking note of the United Nations Guidelines on Disabilities and the results of the Committee's day of general discussion on the rights of children with disabilities (6 October 1997), the Committee recommends that the State party:**

(a) Conduct a survey to identify the exact number of children with disabilities, including children who stay at home, and the causes of, and ways to prevent, disabilities in children;

(b) Ensure the integration within the State party's child rights policy of the rights of children with disabilities with regard to, inter alia, non-discrimination, participation, survival and development, health, education (including vocational education for future employment) and integration into society;

(c) Ensure access for children with disabilities to public transportation and public buildings, including all schools and hospitals;

(d) Train additional teachers to teach and counsel children with disabilities;

(e) Strengthen the assistance, including financial assistance and counselling, provided to the families of children with disabilities;

(f) Seek international cooperation from, inter alia, UNICEF, in this regard.

Abuse and neglect

38. Noting the recent establishment of the Register of Child Abuse, the annual celebration of Child Abuse Awareness and Prevention Month and the active involvement of the Department of Family Services as the body that receives and handles reports of child abuse and neglect, the Committee remains concerned that:

(a) The instance of child abuse, including sexual abuse, is high and, as noted in its report, the State party has made insufficient efforts to address this concern;

(b) The abuse, including sexual abuse, of children often occurs within the family, committed by parents and siblings, and is often hidden;

(c) Some perpetrators of sexual abuse are able to pay money to the families of victims to avoid prosecution and even to perpetuate the abuse;

(d) There are many cases of neglect of children by parents, including the late presentation of a sick child at a hospital or clinic;

(e) Only the police and not the social services have the authority to remove a child from a family situation in which the child is suffering abuse or neglect, and this may add to the trauma suffered by the child.

39. **The Committee recommends that the State party:**

(a) Undertake a study on the scope and nature of child abuse and neglect;

(b) Address the abuse, including sexual abuse, and neglect of children, giving particular attention to their occurrence within the family, through, inter alia, developing a strategy and programmes of prevention, response and support to victims;

(c) In the context of the Committee's recommendation under section 1 of these concluding observations:

(i) Strengthen further the capacity of the Department of Family Services and the work of the Register of Child Abuse;

(ii) Establish effective child-sensitive procedures and mechanisms to receive, monitor and investigate complaints, and to intervene where necessary;

(iii) Train teachers, law enforcement officials, care workers, judges and health professionals in the identification, reporting and management of cases of ill-treatment;

(d) Consider giving the necessary legal authority to the social services to take urgent action to protect children from abuse;

(e) Strengthen its efforts to prosecute persons responsible for perpetrating abuse and provide medical help and counselling to those perpetrators in need of such assistance;

(f) Take all necessary measures to prohibit payment and acceptance of money with the purpose of perpetrators of sexual abuse against children avoiding prosecution, and prosecute the persons concerned;

(g) Provide child victims of abuse with appropriate medical and psychological support, including recovery and social reintegration assistance for child victims and their families;

(h) Strengthen the education provided to young parents in the care and early attention they should give to their sick children and in the prevention of abuse and neglect;

(i) Take into consideration the recommendations the Committee adopted on the occasion of its days of general discussion on children and violence (CRC/C/100, para. 688, and CRC/C/111, paras. 701-745);

(j) Seek assistance from, among others, UNICEF and the World Health Organization.

Adolescent health

40. The Committee is concerned that:

(a) Adolescents face health risks, including from sexual exploitation, maltreatment, drug and alcohol abuse, and HIV/AIDS;

(b) The rate of teenage pregnancy is high.

41. **The Committee recommends that the State party:**

(a) Increase its efforts to promote adolescent health, including mental health, policies, particularly with respect to reproductive health and substance abuse and health education in schools, ensuring the full participation of adolescents;

(b) Consider means of reducing teenage pregnancy, including strengthening reproductive health education for adolescents, and ensure the provision of full health and counselling support for pregnant girls and that these girls are able to continue their formal education.

7. Education, leisure and cultural activities (arts. 28, 29, 31)

42. While noting the significant increase in the numbers of pre-schools for children between the ages of 3 and 5 and efforts to set minimum standards for these schools, and noting also the increase in the proportion of trained teachers in primary and secondary schools (as indicated in the replies to the list of issues), the Committee remains concerned that:

(a) Pre-schools are not regulated by the Government, buildings are insufficiently equipped and personnel inadequately trained;

(b) The proportion of untrained teachers in primary schools remains high - approximately 25 per cent of the total;

(c) Despite passage of the 1992 Education Act, compulsory primary education is not yet enforced;

(d) The number of children passing the secondary school entrance examination is extremely low;

(e) Children have insufficient access to books and other reading materials.

43. **The Committee recommends that the State party:**

(a) Adopt legislation regulating pre-schools, including with regard to the standards of buildings and other facilities and the training of staff, and continue its current efforts in this regard;

(b) Continue the progress made so far in providing training for primary school teachers;

(c) Follow through with its commitment, as expressed by the delegation, to enforce compulsory education requirements from September 2002 and to consider raising the age of compulsory education from 14 to 16;

(d) Review the system of secondary school entrance examinations and take action to address problems identified, with a view, inter alia, to raising significantly the numbers of children graduating from primary to secondary school;

(e) In the light of the Committee's General Comment on article 29.1 of the Convention and the aims of education (CRC/GC/2001/1), take measures to strengthen the accessibility, quality and management of schools and take action to address problems identified;

(f) Continue its ongoing efforts to increase the computerization of schools, and ensure that all children have access to appropriate books and other reading materials;

(g) Seek technical assistance from UNICEF and UNESCO in this regard.

8. Special protection measures (arts. 22, 38-[illegible] (b)-(d), 32-36)

Economic exploitation

44. The Committee:

(a) Is concerned at the child labour situation;

(b) Joins the State party in expressing concern that existing legislation with regard to working children is outdated and provides insufficient protection to children;

(c) Notes that data with regard to child labour are scarce.

45. **The Committee recommends that the State party:**

(a) Undertake a survey to assess the scope and nature of child labour in all sectors;

(b) Conduct a review of legislation with regard to working children and amend it to ensure its compatibility with the principles and provisions of the Convention, and adopt and implement ILO Convention No. 138 concerning the Minimum Age for Admission to Employment;

(c) Take action to implement all legislation and policies relevant to addressing child labour concerns and protecting the rights of children in the context of their economic exploitation.

Street children

46. While noting the establishment of a programme to reintegrate street children into their families (as indicated in the replies to the list of issues), the Committee remains concerned at the situation of street children and at the lack of relevant data in this regard.

47. **The Committee recommends that the State party:**

(a) Undertake a study on the scope and causes of the phenomenon;

(b) Create a legislative framework and continue and strengthen its ongoing efforts to assist street children, including with regard to their reintegration into their families.

Sexual exploitation and abuse

48. The Committee is concerned:

(a) At the sexual exploitation of children, including boys and including street children, for payment;

(b) That the State party lacks accurate data and an adequate policy in this regard.

49. **The Committee recommends that the State party:**

(a) Undertake a study to examine the sexual exploitation of children, gathering accurate data on its incidence;

(b) Develop an effective and comprehensive policy addressing the sexual exploitation of children, including the factors that place children at risk of such exploitation;

(c) Implement appropriate policies and programmes for prevention and for the recovery and reintegration of child victims, in accordance with the Declaration and Agenda for Action and the Global Commitment adopted at the 1996 and 2001 World Congresses against Commercial Sexual Exploitation of Children.

The illicit use of drugs and substances

50. The Committee is concerned that:

(a) The illicit use of drugs and substances by children is increasing, including the use of crack cocaine and marijuana, as well as other substances, and that some of the children abusing drugs and using substances are placed, for this reason, in mental health institutions;

(b) The State party lacks adequate data and treatment programmes in this regard.

51. **The Committee recommends that the State party:**

(a) Undertake a survey on the scope of substance abuse by children, including the collection of data;

(b) Take action to combat substance abuse by children, including through public education campaigns, and ensure that child drug and substance abusers are not placed in mental institutions unnecessarily and have access to effective structures and procedures for treatment, counselling, recovery and reintegration.

Administration of justice

52. While recognizing the State party's efforts in this domain the Committee remains concerned that:

(a) The age of criminal responsibility, fixed at 8 years of age, is too low and that juvenile justice protections are not afforded to all persons under the age of 18;

(b) With only very limited exceptions, the State party does not provide legal assistance to children, and that children from disadvantaged backgrounds are frequently left without such support;

(c) Children are sometimes forced by the police to confess to criminal offences when they are held in custody at police stations, and are sometimes subject to ill-treatment;

(d) Juveniles are not usually deprived of their liberty as a "last resort" and, because legislation does not provide a sufficient range of sentencing alternatives to deprivation of liberty, juveniles and young people, especially from 16 years upwards, are sometimes sent to prison when a lesser punishment could have been applied;

(e) Children who have been charged are detained with adult persons charged with crimes, in police stations and for long periods of time, because there are no juvenile criminal detention facilities;

(f) Children who are charged jointly with adults are tried in regular courts;

(g) There is no institution used exclusively for children where children purging a prison sentence can be sent, that the "Approved Schools" provided for in the Juvenile Act do not exist and that, as a consequence, convicted children over 16 are sent to adult prison;

(h) The Corporal Punishment of Juveniles Act allows for the caning of juveniles who have been found guilty of crime.

53. **The Committee recommends that the State party:**

(a) Significantly raise the age of criminal responsibility and ensure that all children under the age of 18 benefit from the special protection measures recognized by juvenile justice standards;

(b) Ensure that all children benefit from free legal assistance in the context of juvenile justice proceedings;

(c) Ensure that deprivation of liberty is used only as a last resort and that provision is made for adequate alternatives to deprivation of liberty, such as community service orders;

(d) Ensure the protection of child detainees from ill-treatment and/or being forced to make confessions by the police;

(e) Establish a system through which children who are detained or imprisoned are separated from adults, and establish alternative institutions to prisons, suited to the education and rehabilitation of delinquents;

(f) Urgently prohibit the corporal punishment of children in the context of the juvenile justice system;

(g) In this regard and in the light of the Committee's day of discussion on juvenile justice, develop mechanisms and provide adequate resources to ensure the full implementation of juvenile justice standards, in particular articles 37, 40 and 39 of the Convention, the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules) and the United Nations Guidelines for the Prevention of Juvenile Delinquency (the Riyadh Guidelines);

(h) Seek assistance from, inter alia, the Office of the High Commissioner for Human Rights, the Centre for International Crime Prevention, the International Network on Juvenile Justice and UNICEF, through the Coordination Panel on Technical Advice and Assistance on Juvenile Justice.

9. Optional Protocols

54. **The Committee encourages the State party to ratify the Optional Protocols to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, and on the involvement of children in armed conflict.**

10. Dissemination of the report, written answers, concluding observations, and the next report

55. **Finally, in the light of article 44, paragraph 6, of the Convention, the Committee recommends that the initial report and written replies submitted by the State party be made widely available to the public at large and that the publication of the report be considered, along with the relevant summary records of the discussion and concluding observations adopted by the Committee. Such a document should be widely distributed in order to generate debate and awareness of the Convention and its implementation and monitoring at all levels of administration of the State party and among the general public, including concerned non-governmental organizations.**

Reporting

56. **In the light of the recommendation on reporting periodicity adopted by the Committee at its twenty-ninth session (CRC/C/114, chap. I), the Committee, aware of the considerable delay in the State party's reporting, underlines the importance of a reporting practice that is in full compliance with the provisions of article 44 of the Convention. An important aspect of States' responsibilities to children under the Convention includes ensuring that the Committee on the Rights of the Child has regular opportunities to examine progress made in the implementation of the Convention. In this regard, regular and timely reporting by State parties is crucial. The Committee recognizes that some States parties experience difficulties in initiating timely and regular reporting. As an exceptional measure, in order to help the State party catch up with its reporting obligations under the Convention, the Committee invites the State party to submit its second and third reports in one consolidated report by 24 November 2005, which is the required date of submission of the third periodic report. The Committee expects the State party to report thereafter every five years, as foreseen by the Convention.**

UNITED
NATIONS

CRC

Convention on the
Rights of the Child

Distr.
GENERAL

CRC/C/15/Add.185
13 June 2002

Original: ENGLISH

COMMITTEE ON THE RIGHTS OF THE CHILD

Thirtieth session

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 44 OF THE CONVENTION

Concluding observations of the Committee on the Rights of the Child: Spain

1. The Committee considered the second periodic report of Spain (CRC/C/70/Add.9), submitted on 12 October 1998, at its 798th and 799th meetings (see CRC/C/SR.798 and 799), held on 4 June 2002, and adopted* the following concluding observations.

A. Introduction

2. The Committee welcomes the submission of the State party's second periodic report, which follows the guidelines for reporting, but regrets the late submission of the written replies to its list of issues (CRC/C/Q/SPA/2). Furthermore, it welcomes the large high-ranking delegation representing different departments and sectors sent by the State party and the frank dialogue and positive reactions to the suggestions and recommendations made during the discussion.

B. Positive aspects

3. The Committee welcomes the great progress and achievements made by the State party since the examination of the initial report to the Committee in 1994. It notes with appreciation that it has made the protection and promotion of the rights of the child a general rule in the society.

* At the 804th meeting, held on 7 June 2002.

4. The Committee welcomes the new laws adopted at the national and the Autonomous Community levels to ensure better compliance of the domestic legislation with the provisions of the Convention, in line with its previous recommendation (CRC/C/15/Add.28 of 24 October 1994, para.18). In particular, it notes the Organizational Act 1/1996 of 15 January on the legal protection of minors, the partial amendment of the Civil Code and the Civil Proceedings Act (the Protection of Minors Act), the Organizational Act 5/2000 of 12 January on penal responsibility for minors, and the amendments to the Criminal Code with reference to offences against sexual integrity (Act 11/1999) and protection of victims of ill-treatment (Act 14/1999).

5. The Committee notes with satisfaction that, in line with its previous recommendation on coordination mechanisms (ibid., para.12), the State party established the Observatory for Children in 1999. It further notes that some Autonomous Communities created institutions or services specifically responsible for children, among others the Council of Children's Affairs of Andalusia, the Office for the Defence of the Rights of the Child of the Balearic Islands, the provincial coordination committees for the care of children in Castilla-La Mancha, and the Institute for Children and the Family of Madrid, and that a network of Municipalities for children's rights was established in 1996.

6. The Committee notes the various social programmes and policies for children at the national and Autonomous Community levels, those for the provision of social services and for poverty eradication, programmes for the support of families in special situations and, in line with its previous recommendation (ibid., para. 21), the National Plan of Action for Social Inclusion of 2001 and the Comprehensive Plan for Support to the Family (2001-2004).

7. The Committee welcomes the establishment of the post of assistant to the *Defensor del Pueblo* (Ombudsman) in charge of issues related to children, who can also receive complaints. It further notes the establishment of various independent organs dealing with violations of children's rights at the Autonomous Community level.

8. In line with its previous recommendation (ibid., para. 20), the Committee welcomes the improvement of safeguards in the cases of intercountry adoption contained in Act 1/1996, and the ratification of the Hague Convention on Protection of Children and Cooperation in respect of Intercountry Adoption of 1993.

9. The Committee notes with satisfaction that, in line with its previous recommendation (ibid. para.15), the State party has increased its assistance to developing countries in the field of children and notes in particular that Spain was the third donor country to the International Programme for the Elimination of Child Labour (IPEC) programme for the period 2000-2001.

10. The Committee notes with appreciation that Spain was the first European country to ratify both Optional Protocols to the Convention on the Rights of the Child. It further notes its ratification of the Worst Forms of Child Labour Convention, 1999 (No. 182).

C. Principal areas of concern and recommendation

1. General measures of implementation

Committee's previous recommendations

11. The Committee regrets that some of the concerns and recommendations it made upon consideration of the State party's initial report (CRC/C/8/Add.6) have been insufficiently addressed, particularly those contained in paragraphs 12 (coordination), 13 (data collection), 14 (resources for children), 16 (non-discrimination), 18 (legislation), 22 (child asylum-seekers and unaccompanied children) and 23 (ratification of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families). Those concerns and recommendations are reiterated in the present document.

12. **The Committee urges the State party to make every effort to address its recommendations contained in the concluding observations on the initial report that have not yet been implemented and to address the list of concerns contained in the present concluding observations on the second periodic report.**

Legislation

13. The Committee shares the concern expressed by the State party (CRC/C/70/Add.9, para.103) that future progress in the field of child legislation will have to lie in the area of real guarantees of the exercise of the rights enunciated in the legal instruments, including more explicit recognition of the Convention as a part of positive law and more widespread citation of the Convention in legal procedures.

14. **The Committee encourages the State party to fully implement the legislation using a rights-based approach and in conformity with the Convention.**

Coordination and comprehensive strategy

15. The Committee, while recognizing the efforts made by the State party to improve coordination, including through the work of the Observatory for Children, shares the concerns raised by the State party (ibid., paras. 128-129) about the need for intersectoral policies for children and to improve coordination in order to secure integrated action both at national and at Autonomous Community levels. It further notes with concern the absence of a comprehensive policy for children.

16. **The Committee recommends that the State party:**

(a) Strengthen effective coordination within and between government agencies at national, regional and local levels in the implementation of policies for the promotion and protection of the child, as it previously recommended (CRC/C/15/Add.28, para. 12);

(b) Formulate a comprehensive strategy for children on the basis of the principles and provisions of the Convention; and

(c) Develop and enforce intersectoral policies for children.

Resources for children

17. The Committee notes with concern that there is not yet a balanced redistribution of resources at the central, regional and local levels and that not all the Autonomous Communities provide the same level of social policies and services for the most marginalized groups in society, in particular, poor families, single-parent families, Roma children and children of migrant families. It notes with particular concern the budgetary problems affecting the autonomous cities of Ceuta and Melilla with reference to care of unaccompanied migrant children.

18. **In light of article 4 of the Convention and in line with its previous recommendation (ibid., para. 14), the Committee encourages the State party:**

(a) To consider ways through which all children can be guaranteed equal access to the same standard of services, irrespective of where they live for example, by establishing nationwide minimum standards for, and allocation of resources to, the implementation of the Convention's provisions, in particular in the areas of health, education and other social welfare services;

(b) To identify clearly its priorities with respect to child rights issues in order to ensure that funds are allocated to the maximum extent of available resources for the full implementation of the economic, social and cultural rights of children, in particular for children belonging to the most vulnerable groups in society; and

(c) To identify the amount and proportion of the budget spent on children at the national, regional and local levels in order to evaluate the impact and effect of the expenditures on children.

Data collection

19. The Committee, while welcoming the creation of Basic Statistics on Child Protection and of a database on children and the efforts of the Observatory for Children to harmonize the system with the Autonomous Communities, remains concerned at the fragmentation of information, which is also due to the various systems and indicators used in each Autonomous Community.

20. **In line with its previous recommendation (ibid., para. 13), the Committee reiterates its recommendation that the State party:**

(a) Strengthen its mechanism for collecting and analysing systematically disaggregated data on all persons under 18 for all areas covered by the Convention, with special emphasis on the most vulnerable groups, including Roma children, children belonging to migrant families, unaccompanied migrant children and children of economically and socially disadvantaged households;

(b) Use these indicators and data effectively for the formulation and evaluation of policies and programmes for the implementation and monitoring of the Convention.

Dissemination

21. While noting with appreciation efforts to disseminate the Convention among NGOs and the media, the Committee considers that education for children and the public at large and training activities for professional groups on children's rights need ongoing attention, in particular to provide a better understanding of the legal obligations of the Convention.

22. **In line with its previous recommendation (ibid., para. 16), the Committee reiterates its recommendation that the State party:**

(a) Continue and strengthen its efforts to disseminate the Convention both to children and to the broader public, including appropriate material specifically for children translated in the different languages spoken in Spain, including languages of migrant children;

(b) Undertake systematic education and training programmes on the principles and provisions of the Convention for all professional groups working for and with children, such as judges, lawyers, law enforcement officials, civil servants, teachers, health personnel and social workers.

2. Definition of the child

23. The Committee expresses its concern at the low age of marriage, which can be 14 years of age with the judge's permission, and at the wide variety of minimum ages in civil matters in the various Autonomous Communities.

24. **The Committee recommends that the State party review its legislation with a view to increasing the minimum age of marriage and harmonizing minimum ages for civil matters in the various Autonomous Communities.**

3. General principles

General principles

25. The Committee is concerned that the principles of non-discrimination, best interests of the child, right to life, survival and development of the child and respect for the views of the child are not fully reflected in the State party's legislation and administrative and judicial decisions, as well as in policies and programmes relevant to children at both national and local levels.

26. **The Committee reiterates its previous recommendation (ibid., para. 11) that the State party:**

(a) Appropriately integrate the general principles of the Convention, namely articles 2, 3, 6 and 12, in all relevant legislation concerning children;

(b) Apply them in all political, judicial and administrative decisions, as well as in projects, programmes and services which have an impact on all children; and

(c) Apply these principles in planning and policy-making at every level, as well as in actions taken by social and health welfare and educational institutions, courts of law and administrative authorities.

Non-discrimination

27. The Committee is concerned that the principle of non-discrimination is not fully implemented for children of Roma origin, children of migrant workers, particularly when they are not legal, and unaccompanied foreign children, especially with regard to their access to adequate health care and educational facilities.

28. **The Committee recommends that the State party:**

(a) Monitor the situation of children, in particular those belonging to the above-mentioned vulnerable groups, who are exposed to discrimination; and

(b) Develop, on the basis of the results of this monitoring, comprehensive strategies containing specific and well-targeted actions aimed at eliminating all forms of discrimination.

29. **The Committee requests that specific information be included in the next periodic report on the measures and programmes relevant to the Convention on the Rights of the Child undertaken by the State party to follow up on the Declaration and Programme of Action adopted at the 2001 World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, and taking account of general comment No. 1 on article 29, paragraph 1, of the Convention (aims of education).**

4. Civil rights and freedoms

Corporal punishment

30. In light of its previous recommendation (ibid., para. 18), the Committee deeply regrets that article 154 of the Civil Code, stating that parents "may administer punishment to their children reasonably and in moderation", has not yet been revised. It acknowledges the information provided in the State party's replies to the list of issues that a draft law for the revision of article 154 is under development.

31. **The Committee reiterates its previous recommendation to amend article 154 in order to delete the reference to reasonable chastisement. It further recommends that the State party:**

(a) Prohibit all forms of violence, including corporal punishment, in the upbringing of children, in conformity with article 19 of the Convention;

(b) Conduct awareness campaigns and promote alternative forms of discipline in families.

5. Family environment and alternative care

Children deprived of family environment

32. The Committee notes with concern that there are different procedures for child's protection in the 17 Autonomous Communities and that they are not always compatible with the best interest of the child, especially with regard to children placed in foster families. It further notes that there is an insufficient number of family courts dealing with the protection of children not in conflict with the law and that they take a long time to deal with the judicial procedures.

33. **The Committee recommends that the State party:**

(a) Ensure that protection procedures for children have a minimum common standard and are compatible with the best interest of the child;

(b) Provide more human and financial resources to family courts so they can deal with their work more expeditiously.

Family reunification

34. The Committee expresses its concern at delays in the procedure for family reunification of recognized refugees, in particular for the issuance of the necessary visa and travel documents by the Ministry for Foreign Affairs.

35. **In light of article 10 of the Convention and in line with its previous recommendation (ibid., para. 22), the Committee reiterates its recommendation that applications for asylum made for the purpose of family reunification be dealt with in a positive, humane and expeditious manner.**

Abuse and neglect

36. The Committee, while acknowledging the important role of the System of Social Care for Children in Social Difficulties, remains concerned about the extent of domestic violence, the lack of standardized procedures for the identification and reporting of cases of neglect, ill-treatment and abuse, and the limited services for the support of victims.

37. **In light of article 19 of the Convention, the Committee recommends that the State party:**

(a) Undertake studies on domestic violence, violence against children, ill-treatment and abuse, including sexual abuse, and implement the statistical system created to keep a record of incidents of physical and mental violence and neglect against children, in order to assess the extent and nature of these practices;

(b) Adopt and implement effectively adequate measures and policies, including public campaigns, and encourage changing attitudes;

(c) Investigate effectively cases of domestic violence and ill-treatment and abuse of children, including sexual abuse within the family, within a child-sensitive inquiry and judicial procedure in order to ensure better protection of child victims, including the protection of their right to privacy;

(d) Take measures to provide support services to children in legal proceedings and for the physical and psychological recovery and social reintegration of the victims of rape, abuse, neglect, ill-treatment and violence, in accordance with article 39 of the Convention;

(e) Take into account the Committee's recommendations adopted at its days of general discussion on "Violence against children within the family and in schools" (see CRC/C/111) and on "State violence against children" (see CRC/C/100).

6. Basic health and welfare

Adolescent health

38. The Committee notes with concern the number of children and adolescents addicted to drugs, in particular synthetic drugs, alcohol and smoking, and the fact that consumption of alcohol and tobacco is socially accepted and not perceived as a risk. It further expresses its concern at the increase in the number of teenage pregnancies.

39. **The Committee recommends that the State party:**

(a) Enforce existing programmes, such as the National Drug Plan for 2002-2008 and those at Autonomous Community level, with a focus on preventive action and awareness raising on the danger of synthetic drugs, alcohol and tobacco;

(b) Take steps to address adolescent health concerns, including teenage pregnancy and sexually transmitted diseases, through, inter alia, sex education, including birth control measures such as the use of condoms;

(c) Strengthen its mental health and counselling services, ensuring that these are accessible and sensitive to adolescents.

Harmful traditional practices

40. The Committee expresses its concern at reports that female genital mutilation is practised in Spain on girls of sub-Saharan origin.

41. **The Committee recommends that the State party:**

(a) Undertake a study on the extent and nature of female genital mutilation practised in Spain or abroad on girls who live in Spain;

(b) Organize an information and awareness campaign, taking into account the result of the study, to prevent this practice; and

(c) Take the necessary steps to prohibit it.

7. Education, leisure and cultural activities

Education

42. The Committee notes with concern:

(a) The high rate of truancy and school drop-out and the difficult school integration of Roma children, children belonging to migrant families or children living in socio-economically deprived areas;

(b) That some children belonging to migrant families, particularly girls, do not complete their compulsory education or have great difficulties in attending school;

(c) The rather widespread bullying in schools;

(d) The negative impact of terrorism on children's development.

43. The Committee further notes that a Quality Education Act is under development.

44. **In light of articles 28 and 29 of the Convention, the Committee recommends that the State party:**

(a) Ensure regular attendance at schools and the reduction of truancy and drop-out rates, especially with regard to Roma children and children belonging to migrant families;

(b) Take measures to prevent bullying and other forms of violence in schools, in light of the Committee's recommendations adopted at its day of general discussion on "Violence against children within the family and in schools";

(c) Ensure that the educational process will promote the culture of peace and tolerance, as well as address the negative impact of terrorism on the physical and psychological well-being of children;

(d) Take into consideration the Committee's general comment No. 1 on the aims of education in the development of the Quality Education Act.

8. Special protection measures

Unaccompanied foreign children

45. The Committee is deeply alarmed about the conditions of unaccompanied foreign children, mostly Moroccans, especially in the autonomous cities of Ceuta and Melilla. In particular, it expresses its concern at reports of:

(a) Ill-treatment of children by police during forced expulsion to the country of origin where, in some cases, they were deported without access to legal assistance and interpretation;

(b) Failure to provide for these children the temporary legal residency status to which they are entitled under the law because the Department of Social Welfare, as their legal guardian, did not apply for it;

(c) Overcrowding and bad conditions of residential centres and cases of ill-treatment by residential centre staff and other children;

(d) Denial of access to health care and education, although guaranteed by law;

(e) Summary expulsions of children without ensuring that they are effectively returned to family or social welfare agencies in their country of origin.

46. **The Committee recommends that the State party urgently take the necessary measures in order to:**

(a) Ensure the implementation of Organizational Act 4/2000 and other laws by providing to unaccompanied foreign children access to residential care, education, emergency services and other health care, and temporary residency documents;

(b) Provide the autonomous cities of Ceuta and Melilla with the necessary financial and human resources for the care of these children;

(c) Coordinate with the Government of Morocco to ensure that when children are repatriated from Spain to Morocco, they are returned to family members willing to care for them or to an appropriate social service agency;

(d) Take all measures to prevent irregular procedures in the expulsion of unaccompanied foreign children;

(e) Investigate in an effective way reported cases of ill-treatment of these children;

(f) Provide unaccompanied foreign children with information about their rights under Spanish and international law, including the right to apply for asylum;

(g) Take all necessary measures to improve the conditions and safety of residential centres and adequately train residential centre staff;

(h) Establish effective mechanisms to receive and address complaints from children in care, monitor standards of care and, in light of article 25 of the Convention, establish regular periodic review of placements;

(i) Consider signing and ratifying the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, as previously recommended (ibid., para. 23).

Economic exploitation

47. The Committee expresses its concern at reports of child labour, especially in family business and the agricultural sector, and at the lack of information on this issue.

48. **The Committee recommends that the State party:**

(a) Undertake studies, such as the one conducted by the Ministry of Social Labour and Social Affairs and the Spanish Committee for UNICEF on "Diagnosis concerning various types of exploitation of juveniles in Spain", to assess the nature and extent of child labour in Spain, in particular in family businesses and in the agricultural sector;

(b) Develop, on the basis of the results of these studies, comprehensive strategies containing specific and well-targeted actions aimed at preventing and eliminating child labour;

(c) Continue to implement programmes aimed at preventing and eliminating child labour through awareness-raising activities and detection of causative factors.

Sexual exploitation

49. The Committee expresses its concern at reports of child prostitution in the suburbs of large cities and in holiday resorts, involving vulnerable children living on the fringes of society.

50. **The Committee recommends that the State party:**

(a) Protect all persons under 18 from all forms of sexual exploitation, even when children have consented, under pressure of money, threats or, allegedly, "freely", to such acts;

(b) Organize campaigns for protection against sexual abuse, prostitution and child pornography;

(c) Implement the National Plan of Action against Commercial Sexual Exploitation of Children 2002-2003.

Children belonging to minority groups

51. While noting the State party's policies targeting the specific needs of the Roma, such as the projects for the Comprehensive Social Intervention for the Care, Prevention of Exclusion and Integration of the Gypsy people and the Gypsy Development Plan, the Committee remains concerned about the difficult social situation of Roma children and their insufficient access to the education system.

52. **The Committee strongly urges the State party:**

(a) To take measures to improve and implement more effectively existing legislation and policies with regard to assuring protection of the rights of all children from minority groups, giving particular attention to the situation of Roma children;

(b) Continue to ensure the participation of persons from minorities, including children, in the drafting and implementation of these policies.

Administration of juvenile justice

53. The Committee welcomes the adoption of the Organizational Act 5/2000 of 12 January on penal responsibility for minors and its educational character, but notes that it would need additional human and financial resource to be implemented effectively. It further notes with concern that the Organizational Act 7/2000 on terrorism increases the period of police custody and the length of prison terms for children accused of terrorism (to up to 10 years). It expresses its concern also at the fact that deprivation of liberty is not used as last resort and that in some cases detention centres are overcrowded.

54. **In light of articles 37 to 40 and other relevant international standards, the Committee recommends that the State party:**

(a) Allocate adequate human and financial resources in order to ensure the full implementation of the Organizational Act 5/2000;

(b) Align the period of police custody for children accused of terrorism with the provisions of the Act and review the length of prison terms for children accused of terrorism;

(c) Provide training on the new juvenile system to those responsible for administering juvenile justice;

(d) Encourage the use of alternative measures to the deprivation of liberty.

9. Dissemination of documentation

55. **Finally, the Committee recommends that, in light of article 44, paragraph 6, of the Convention, the second periodic report and written replies presented by the State party be made widely available to the public at large and that the publication of the report be considered, along with the relevant summary records and the concluding observations adopted by the Committee. Such a document should be widely distributed in order to generate debate and awareness of the Convention and its implementation and monitoring within the Government, the parliament and the general public, including concerned non-governmental organizations.**

10. Periodicity for submission of reports

56. **In light of the recommendation on reporting periodicity adopted by the Committee and described in the report on its twenty-ninth session (CRC/C/114), the Committee underlines the importance of a reporting practice that is in full compliance with the provisions of article 44 of the Convention. An important aspect of States parties' responsibilities to children under the Convention is ensuring that the Committee on the Rights of the Child has regular opportunities to examine the progress made in the Convention's implementation. In this regard, regular and timely reporting by States parties is crucial. As an exceptional measure, in order to help the State party catch up with its reporting obligations in full compliance with the Convention, the Committee invites the State party to submit its third and fourth reports in one consolidated report by 4 January 2008, the due date for the submission of the fourth report. The Committee expects the State party to report thereafter every five years, as foreseen by the Convention.**

UNITED
NATIONS

CRC

Convention on the
Rights of the Child

Distr.
GENERAL

CRC/C/15/Add.186
13 June 2002

Original: ENGLISH

COMMITTEE ON THE RIGHTS OF THE CHILD

Thirtieth session

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 44 OF THE CONVENTION

Concluding observations of the Committee on the Rights of the Child: The Kingdom of the Netherlands (Netherlands Antilles)

1. The Committee considered the State party's initial report on the Netherlands Antilles (CRC/C/61/Add.4) at its 800th and 801st meetings (see CRC/C/SR.800 and 801), held on 5 June 2002, and adopted* the following concluding observations.

A. Introduction

2. The Committee welcomes the submission of the State party's initial report on the Netherlands Antilles which followed the established guidelines. The Committee also welcomes the timely submission of the written replies to its list of issues (CRC/C/6/Add.4), which allowed for a clearer understanding of the situation of children in the Netherlands Antilles. The Committee, however, expresses its concern that the State party has submitted a separate report on behalf of the Netherlands Antilles.

3. The Committee is encouraged by the constructive, frank and open dialogue held with the State party's delegation which was composed of well-informed representatives of the Netherlands Antilles.

* At its 804th meeting, held on 7 June 2002.

B. Positive factors

4. The Committee notes the State party's efforts, through the enactment of legislation, to facilitate the implementation of the Convention in the Netherlands Antilles. In particular, the Committee notes the enactment of a new Civil Code in January 2001, which eliminates discrimination against children born out of wedlock, including with respect to their inheritance rights, and which lowers the age of civil majority from 21 to 18. The Committee further welcomes the amended Labour Regulation which increases the minimum age for employment to 15 years old, and notes with satisfaction the introduction of compulsory basic education for all children between the ages of 4 and 15.

5. The Committee welcomes with satisfaction the 1996 report entitled "From social needs to economic perspectives", which includes an urgency programme and a structural programme, and notes the Participatory Poverty Assessment of 1999 and the nine multisectoral Poverty Eradication Programmes initiated in 2000 through the Fund for Social Development, ensuring a fuller implementation of child rights.

6. The Committee notes with satisfaction the adoption in 1999 of the National Youth Policy Programme in order to improve central and island cooperation in regard to youth problems as well as to serve as a national plan of action for dealing with youth issues, and an "Urgency Programme for the Youth", with the goal of improving the quality of life and socio-economic integration of high-risk youth. The Committee further welcomes the introduction of the Directorate for Youth Development to coordinate and monitor policy in the field of child rights, and the use of creative materials by the Task Force for the Dissemination of the Convention to children and the public at large.

7. The Committee welcomes recent efforts taken by the State party to promote cooperation with and participation by non-governmental organizations in policy development and implementation of the Convention through a central NGO body which interacts closely with NGOs on all the islands.

8. The Committee also welcomes the establishment of a mechanism for coordinating external aid on the basis of equality within the State party between the Kingdom of the Netherlands, the Netherlands Antilles and Aruba, as defined in the Charter of the Kingdom and the 1987 protocol.

9. The Committee notes with satisfaction that a National Strategic Plan (NSP) for the prevention and control of HIV/AIDS has been developed, in cooperation with UNAIDS, the United Nations Development Programme, the Caribbean Epidemiology Center, the Pan-American Health Organization and the Caribbean Community.

C. Factors and difficulties impeding the implementation of the Convention

10. The Committee acknowledges that the economic and social difficulties facing the Netherlands Antilles have had a negative impact on the situation of children and have impeded the full implementation of the Convention. In particular, it notes the impact of the structural adjustment programme, the increasing levels of unemployment and poverty and the added

difficulties caused by hurricanes and other natural disasters on the islands. The Committee further notes the country's geographic spread, which poses problems in the provision of services and the coordination of policies and programmes.

D. Principal subjects of concern, suggestions and recommendations

1. General measures of implementation

Reservations

11. The Committee is concerned that the reservations made by the State party with respect to articles 26, 37 and 40 of the Convention, as well as the declaration concerning article 22, have not yet been withdrawn and are still applicable to the Netherlands Antilles.

12. **In light of the Vienna Declaration and Programme of Action (1993), the Committee encourages the State party in its intention, as stated by the delegation, to withdraw all of its reservations and declarations, including with respect to the Netherlands Antilles.**

Legislation

13. The Committee welcomes efforts by the State party to harmonize legislation with the Convention, such as the introduction of a new Civil Code in January 2001. Yet, the Committee is concerned that the new Civil Code and the Family Law are not sufficiently known within the Netherlands Antilles.

14. **The Committee recommends that the State party:**

(a) Continue in its effort to ensure that the new provisions of the Civil Code and Family Law are published and accessible to the public, and are sufficiently known and understood by all professional groups working for and with children;

(b) Review the legislation in order to achieve full compliance with the Convention and its rights-based approach.

Independent monitoring structures

15. The Committee expresses concern at the absence of an independent mechanism in the State party to assess progress in implementing the Convention and to register and address complaints from children directly concerning violations of their rights under the Convention.

16. **The Committee encourages the State party to establish an independent and effective mechanism in accordance with the Principles relating to the status of national institutions for the promotion and protection of human rights (General Assembly resolution 48/134), provided with adequate human and financial resources and easily accessible to children, that:**

(a) Monitors the implementation of the Convention;

(b) Deals with complaints from children in a child-sensitive, direct and expeditious manner;

(c) Provides remedies for violations of their rights under the Convention.

In this regard, the Committee further recommends that the State party consider seeking technical assistance from, among others, UNICEF and OHCHR.

Resources for children

17. Whilst the Committee welcomes the State party's determination in redistributing resources according to the priorities set by the Netherlands Antilles for a fuller implementation of the Convention, the Committee is concerned that cultural rights for children, in particular for marginalized groups, are not sufficiently protected.

18. **In light of articles 2, 3, and 6 of the Convention, the Committee encourages the State party to pay particular attention to an effective and progressive implementation of article 4 of the Convention by prioritizing budgetary allocations for the economic, social and cultural rights of children, to the maximum extent of available resources (at all levels) and including through development cooperation.**

Data collection

19. The Committee is concerned at the lack of an adequate data collection mechanism within the State party to permit the systematic and comprehensive collection of disaggregated quantitative and qualitative data for all areas covered by the Convention in relation to all groups of children in order to monitor and evaluate progress achieved and assess the impact of policies adopted with respect to children.

20. **The Committee recommends that the State party, as a matter of priority, systematically collect disaggregated data incorporating all the areas covered by the Convention and covering all children below the age of 18 years, with specific emphasis on those who are in need of special protection and including children within the juvenile justice system. The State party should also develop indicators to effectively monitor and evaluate progress achieved in the implementation of the Convention and assess the impact of policies that affect children. In this context, the Committee recommends that the State party seeks technical assistance from, among others, the United Nations Population Fund (UNFPA), UNDP and UNICEF.**

Dissemination

21. While the Committee notes with appreciation the initiatives of the State party to promote awareness of the principles and provisions of the Convention in the Netherlands Antilles, and welcomes the translation of the Convention into the major languages, the Committee is concerned that civil servants, professional groups, children, parents and the general public are

still not sufficiently aware of the Convention and the rights-based approach enshrined therein. The Committee is also concerned that insufficient efforts have been taken to publicize the initial report of the Netherlands Antilles.

22. **The Committee recommends that:**

(a) The State party strengthen its awareness-raising efforts and encourage the islands to undertake systematic education and training on the rights of the Convention for all professional groups working for and with children, in particular parliamentarians, judges, lawyers, law enforcement officials, civil servants, municipal workers, personnel working in institutions and places of detention for children, teachers, health personnel, including psychologists, social workers, as well as children and their parents;

(b) Recommends that the Netherlands Antilles seek to ensure that the Convention is fully integrated into the curricula at all levels of the educational system, on all the islands.

2. Definition of the child

23. The Committee is concerned that specific protection is only afforded to children of 16 years and below in the administration of the justice system.

24. **The Committee recommends that specific protection be provided in the area of the administration of justice to all children up to the age of 18, in conformity with the Convention.**

3. General principles

Non-discrimination

25. The Committee is concerned that:

(a) The principle of non-discrimination against children is not guaranteed in legislation;

(b) Discrimination on some of the grounds mentioned in article 2 of the Convention is still not a punishable offence under the Criminal Code;

(c) There is discrimination against children with disabilities;

(d) There are discrepancies in the enjoyment of rights in relation to certain vulnerable groups, especially children from immigrant families who have only limited access to adequate health, education and other social services.

26. **The Committee recommends that the Netherlands Antilles:**

(a) Ensure that all relevant legislation prohibits discrimination on all the grounds covered by article 2 of the Convention;

(b) Address all forms of discrimination against children mentioned in points (c) and (d) above;

(c) Take strong proactive measures to ensure that children of immigrant families have equal access to education, health and other services.

27. **The Committee requests that specific information be included in the next periodic report on the measures and programmes relevant to the Convention on the Rights of the Child undertaken by the Netherlands Antilles to follow up on the Declaration and Programme of Action adopted at the 2001 World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, and taking account of general comment No. 1 on article 29, paragraph 1, of the Convention (aims of education).**

Best interest of the child

28. The Committee is concerned that the principle of the best interest of the child (art. 3) is not expressly included in the legislation and the administrative and judicial decisions of the State party, as well as in policies and programmes relevant to children at both national and local levels.

29. **The Committee recommends that the State party apply the principle of the best interest of the child as a primary consideration in all relevant legislation concerning children and in all legal, judicial and administrative decisions, as well as in projects, programmes and services which have an impact on all children.**

The right to life, survival and development

30. The Committee expresses its concern that one of the leading causes of death among older children is homicide.

31. **The Committee recommends that the Netherlands Antilles study the problem of homicide amongst youth and take effective measures to address the root causes based on the results of the study.**

Respect for the views of the child

32. While noting the State party's efforts in this regard, including the establishment of Youth Summits, Youth Advisory Groups and a Youth Parliament, the Committee remains concerned that:

(a) The views of the child are still not fully respected and taken into account at school and at home;

(b) Few of the Youth Advisory Groups are still active, and the Youth Parliament only includes a minority of persons under 18.

33. **The Committee recommends that the State party:**

(a) Promote and facilitate, within the family, the school, the courts and administrative bodies, respect for the views of children and their participation in all matters affecting them, according to their age and majority;

(b) Provide information to children and their parents, teachers, government officials, the judiciary, traditional leaders and society at large on children's right to participate and to have their views taken into account;

(c) Continue and strengthen its efforts to assure child participation in all spheres that affect their lives, including through reinforcing the work of and increasing the number and representation of children involved in Youth Parliaments, Summits and Advisory Groups, and ensure that girls in particular take an active role within these bodies and other participatory mechanisms;

(d) Ensure that the current education reforms include specific mechanisms to guarantee children's involvement and expression in school policy and the development of curriculum.

4. Civil rights and freedoms

Birth registration

34. While the Committee takes note of the State party's efforts in the area of birth registration, including the three-months "grace period" given to undocumented migrants to register themselves, the Committee remains concerned that a large percentage of children, especially those from migrant families, are not registered and thus have not been able to enjoy their rights fully.

35. **The Committee recommends that the Netherlands Antilles, in light of article 7 of the Convention, expand systems and procedures for the immediate registration of the birth of all children and campaign to raise awareness of the importance of birth registration. Special emphasis should be placed on the registration of children belonging to the most vulnerable groups, including children belonging to migrant families.**

Violence/abuse/neglect/maltreatment

36. The Committee welcomes the launching of the National Action Plan "Towards Advice and Reporting Centres against Child Abuse in the Netherlands Antilles" in October 2001, which aims to create recognizable, accessible and effective centres to deal with child abuse. The Committee is concerned, however, that there is insufficient information and awareness of the

ill-treatment and abuse of children and that whilst corporal punishment has been formally banned and made a punishable offence in schools as a matter of policy, this form of punishment continues to be practised in schools, as well as in the home and in public institutions such as prisons and in alternative care contexts.

37. **The Committee recommends that the Netherlands Antilles:**

(a) Take all legislative measures to prohibit all forms of physical and mental violence, including corporal punishment, against children (boys as well as girls) in the home, schools and in all other contexts;

(b) Conduct a study to assess the nature and extent of ill-treatment and abuse of children, and design policies and programmes to address it;

(c) Carry out public education campaigns about the negative consequences of ill-treatment of children and promote positive, non-violent forms of discipline as an alternative to corporal punishment;

(d) Encourage the establishment of a steering committee for "Advice and Reporting Centres against Child Abuse" on each island, as suggested in the National Action Plan, and ensure that these centres possess effective procedures and mechanisms for reporting and referring cases of child abuse and neglect, as well as appropriate measures for the protection of child victims;

(e) Provide care, recovery and reintegration for victims;

(f) Train teachers, law enforcement officials, care workers, judges and health professionals in the identification, reporting and management of ill-treatment cases;

(g) Take into consideration the recommendations of the Committee adopted on its days of general discussion on children and violence in September 2000 (CRC/C/100, para. 688) and September 2001 (CRC/C/111, paras. 701-745);

(h) Take measures, including through legislation, to support and protect child victims and witnesses in legal proceeding;

(i) Seek assistance from, among others, UNICEF and WHO.

5. Family environment and alternative care

Family environment

38. The Committee is concerned that as noted by the State party, "an increasing number of families on the Netherlands Antilles are finding it extremely difficult to fulfil their basic role of educating and raising their children" (CRC/C/6/Add.4, para. 98), and at the large number of

single-parent families, mostly headed by women, and the inadequate assistance provided to them. The Committee is further concerned at the disparities in the availability and accessibility of day-care services between islands.

39. **The Committee recommends that the State party:**

(a) Take steps to ensure that parents and families understand and fulfil their obligations towards children and give consideration to means of providing families with additional support, including through the implementation of the 1997 government memorandum on the family;

(b) Establish an effective mechanism for the provision of adequate social welfare;

(c) Introduce a national policy on day-care services with a view to ensuring uniformity across all islands.

Recovery of maintenance

40. The Committee notes that while the Civil Code obliges parents to meet the costs of maintaining and educating their child, in practice it is difficult to recover this maintenance and often it is the mother who carries full responsibility for the upbringing of the child.

41. **The Committee recommends that the State party implement a more proactive and effective policy for collecting maintenance from solvent parents who refuse to pay.**

Children deprived of a family environment

42. The Committee expresses its concern that:

(a) Current facilities available for the alternative care of children deprived of their family environment are insufficient, in particular in the Windward Islands where no foster homes are available;

(b) The Island Ordinances on alternative care have not been sufficiently implemented, monitoring and follow-up of placements in institutions is inadequate, and personnel available in this field are insufficiently trained.

43. **The Committee recommends that the Netherlands Antilles:**

(a) Develop programmes to facilitate alternative care, in particular foster care in the Windward Islands;

(b) Strengthen efforts to improve the quality of care available, including through the implementation of the Ordinances on alternative care for all islands;

(c) Provide training, including in children's rights, for social and welfare workers;

(d) Ensure that placements in institutions are periodically reviewed, as required under article 25 of the Convention;

(e) Establish an independent complaint mechanism for children in alternative care institutions;

(f) Strengthen its collaboration with NGOs in this area, and consider renewing its support to NGOs providing alternative care facilities.

6. Basic health and welfare

44. While the Committee notes the efforts of the State party to improve health care for children through, inter alia, free and accessible preventive health care on all five islands, developing health education programmes for youngsters and adolescents and providing free of charge mental health care for 0-19 year olds, the Committee is concerned at the insufficient number of trained medical personnel; the inaccessibility of health services to children not enrolled in the health-care system; the very low rates of breastfeeding and the inadequate education of health workers and the general public on the advantages of breastfeeding, and the limited psychological and physical programmes available for treating child victims of hurricanes and other natural disasters. The Committee is further concerned at the disparity in the quality of health services among the islands.

45. **The Committee recommends that:**

(a) Greater efforts be undertaken to make the necessary professional and financial resources available;

(b) Every effort be made to improve public knowledge of basic health-care measures, including prevention and reproductive health, and provide for the affordable availability of contraception so that unwanted pregnancy does not occur;

(c) Efforts to reach unregistered schools, specifically makeshift schools, are continued and strengthened;

(d) The State party develop a national campaign to inform parents and train professionals on the advantages of breastfeeding and continue and expand to all islands its initiative to introduce "baby-friendly" hospitals;

(e) Comprehensive and consistent programmes for treating victims of hurricanes be developed;

(f) National legislation for health care be introduced so as to ensure that disparities in the quality of health care among the islands is rectified;

(g) Social security and health insurance be broadened so as to include all children within the State party.

Children with disabilities

46. The Committee is concerned that:

(a) There are insufficient resources and specialized staff for children with disabilities and a lack of specialized institutions, in particular in the Windward Islands;

(b) Undocumented children do not have access to this care;

(c) Insufficient efforts have been made to facilitate the inclusion of children with disabilities into the educational system and generally within society.

47. **The Committee recommends that the State party:**

(a) Undertake studies to determine the causes of and ways to prevent disabilities in children;

(b) In light of the Standard Rules on the Equalization of Opportunities for Persons with Disabilities (General Assembly resolution 48/96) and the Committee's recommendations adopted at its day of general discussion on " The rights of children with disabilities" (CRC/C/69, paras. 310-339), further encourage the integration of children with disabilities into the regular educational system and their inclusion in society, notably by providing special training to teachers and making the physical environment, including schools, sports and leisure facilities and all other public areas more physically accessible;

(c) Undertake an awareness-raising campaign with the participation of children, to sensitize the public about the rights and special needs of children with disabilities as well as children with mental health concerns;

(d) Provide assistance to the parents or others caring for children with disabilities;

(e) Seek technical assistance for the training of professional staff working with and for children with disabilities.

Adolescent health

48. While the Committee welcomes the introduction of "Healthy Lifestyles" and "Reproductive Health" into the education curriculum, the Committee remains concerned at the high rates of early pregnancy and the lack of information, counselling and preventive programmes on reproductive health. It also notes the rise in the number of children and youth using drugs, and the growing number of cases of HIV/AIDS among the youth.

49. **The Committee recommends that the Netherlands Antilles:**

(a) Implement the programme on reproductive health proposed in 1996 following the national workshop on reproductive health;

(b) Develop youth-sensitive and confidential counselling, care and rehabilitation facilities that are accessible without parental consent and to those not enrolled in the regular education system, when this is in the best interests of the child;

(c) Ensure that adolescents (both girls and boys) have access to and are provided with education on reproductive health and other adolescent health issues, as well as with child-sensitive and confidential counselling services, and strengthen efforts in the area of adolescent health education within the educational system.

HIV/AIDS

50. Whilst welcoming the efforts taken to develop a national strategic plan for the prevention and control of HIV/AIDS within the Netherlands Antilles, the Committee remains concerned at the increasing incidence of HIV/AIDS. The Committee is deeply concerned about the very serious impact of HIV/AIDS on the cultural, economic, political, social and civil rights and freedoms of children infected with or affected by HIV/AIDS, including the general principles of the Convention and with particular reference to non-discrimination and the rights to health care, education, food and housing, as well as to information and freedom of expression.

51. **The Committee recommends that the State party integrate respect for the rights of the child into the development and implementation of its HIV/AIDS policies and strategies on behalf of children infected with and affected by HIV/AIDS, as well as their families, including by taking into consideration the recommendations the Committee adopted at its day of general discussion on "Children living in a world with HIV/AIDS" (CRC/C/80, para. 243) and to involve children in implementing this strategy.**

7. Education, leisure and cultural activities

52. The Committee welcomes and is encouraged by the introduction of the Foundation Based Education in August 2002, which includes in its curriculum subjects such as Human Rights, Healthy Lifestyles, Reproductive Health and Social Development, and which provides a more participatory approach for children within school life. The Committee remains concerned, however, at:

(a) High drop-out rates in primary and secondary school, especially among boys;

(b) Insufficient number of well-trained teaching staff;

(c) The disparity among the islands in enrolment rates and access to education;

(d) High illiteracy rates for boys and girls;

(e) Various forms of discrimination and exclusion which affect the right to education of certain groups of children, such as pregnant adolescents, undocumented children and children with disabilities, reflecting insufficient attention to articles 28 and 29 of the Convention.

53. **The Committee recommends that the State party:**

(a) Seek to implement participatory measures to encourage children, especially boys, to stay in school during the period of compulsory education;

(b) Take effective measures through, inter alia, non-formal measures to address the high illiteracy rates;

(c) Extend resources to support children to go to secondary education;

(d) Effectively implement the Foundation Based Education as of August 2002 and monitor its progress, ensuring that children are consulted in this process and that teachers are sufficiently trained in this new approach to education;

(e) Ensure that pregnant girls of compulsory school age stay in school and are provided with adequate support mechanisms to continue their education after the child is born;

(f) Increase the number, capacity and quality of special education institutions for children with special education needs;

(g) Address education towards the aims mentioned in article 29, paragraph 1, of the Convention and the Committee's general comment on the aims of education.

Leisure and cultural activities

54. The Committee welcomes efforts by the State party to increase after school care centres for children, and introduce after school programmes and facilities for youth. Yet, the Committee is concerned that there is a lack of affordable sports facilities and other recreational programmes, and not enough activities of a cultural nature.

55. **The Committee recommends that the State party organize cultural after school activities such as drawing, plastic arts, dance and music, in participation with children, and make available free and accessible public sports facilities.**

8. Special protection measures

Refugee and internally displaced children

56. The Committee notes with concern the State party's declaration concerning article 22. The Committee is further concerned at the absence of legislation, policies and procedures in the Netherlands Antilles regarding the protection of the rights of refugee and unaccompanied children.

57. **The Committee recommends that the State party withdraw the declaration concerning article 22 and take effective legal and other measures to ensure adequate protection of refugee and unaccompanied children and implement programmes and policies to ensure their access to health, education and other social services.**

Economic exploitation

58. The Committee, whilst welcoming the introduction of the new Labour Regulation which increases the minimum age for employment to 15, remains concerned that:

(a) For night work and hazardous work the minimum age of 15 is too low and not in conformity with international standards;

(b) Children 12 years and above who have not completed primary education may work;

(c) Insufficient information and inadequate data are available on the situation of child labour and economic exploitation within the Netherlands Antilles;

d) There is inadequate enforcement of the child labour law, in particular with regard to hazardous labour, and no monitoring mechanisms available to address the situation.

59. **The Committee recommends that:**

(a) Child labour laws be reviewed and implemented, labour inspectorates be strengthened and penalties be imposed in cases of violations;

(b) Special attention be paid to enforcing laws prohibiting children under the age of 18 from work that might be hazardous to their health, safety or development, in line with ILO Minimum Age Convention, 1973 (No. 138).

Sexual exploitation and trafficking

60. The Committee is concerned at:

(a) The absence of data and of a comprehensive study on the issue of sexual exploitation and sexual abuse of children;

(b) The limited programmes available for providing physical and psychological recovery and social reintegration of child victims of such abuse and exploitation;

(c) Legislation making sexual exploitation of children only a criminal offence up to the age of 16 and not 18, and the exclusion of boys from this legislation.

61. **In light of article 34 of the Convention, the Committee recommends that the Netherlands Antilles:**

(a) Implement appropriate policies and programmes for prevention and for the reintegration and recovery of child victims according to the Declaration and Agenda for Action and the Global Commitment adopted at the 1996 and 2001 World Congresses against Commercial Sexual Exploitation of Children;

(b) Extend coverage of legislation to ensure protection of children from sexual exploitation up to the age of 18;

(c) Undertake studies with a view to assessing the scope of exploitation of children, including for prostitution and pornography.

Substance abuse

62. The Committee expresses concern at:

(a) The high incidence of drug abuse and drug trafficking involving children, particularly in St. Maarten and Curaçao;

(b) The absence of data on this problem as well as the lack of a comprehensive national plan of action to combat drug abuse and trafficking amongst children;

(c) The limited psychological, social and medical programmes and services available for the treatment of drug-addicted children.

63. **The Committee recommends that the Netherlands Antilles:**

(a) Review and update national legislation on drugs;

(b) In light of article 33 of the Convention, take all appropriate measures, including administrative, social and educational measures, to protect children from the illicit use of narcotic drugs and to prevent the use of children in the illicit trafficking of such substances;

(c) Support rehabilitative, reintegration and recovery programmes dealing with child victims of drug and substance abuse.

Administration of juvenile justice

64. The Committee is seriously concerned about the implications of the reservation entered by the State party on the applicability of adult criminal law to children over 16 years of age which is applicable to the Netherlands Antilles, and the reservation to article 40, which stipulates that for minor offences children need not be heard in the presence of a legal representative. The Committee is further concerned at reports that minors below 16 are held together with adults in detention facilities. In addition, the Committee is concerned that there are insufficient facilities for children in conflict with the law, limited training programmes for professionals working in the juvenile justice system, no available complaint mechanism directly accessible for children whose rights have been violated, and a lack of statistical data on the juvenile justice system.

65. **The Committee recommends that the State party:**

(a) Develop laws, policies and mechanisms and provide adequate resources to ensure the full implementation of juvenile justice standards and in particular articles 37, 40 and 39 of the Convention, as well as the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules) and the United Nations Guidelines for the Prevention of Juvenile Delinquency (the Riyadh Guidelines), and in the light of the Committee's 1995 day of general discussion on the administration of juvenile justice (see CRC/C/46, chap. III, sect. C);

(b) Apply the special protection of the juvenile justice system to all children below 18;

(c) Ensure that minors are always heard in the presence of a legal representative; consider deprivation of liberty only as a measure of last resort and for the shortest possible period of time; protect the rights of children deprived of their liberty, including those pertaining to conditions of detention; and ensure that children are always separated from adults and remain in regular contact with their families while in the juvenile justice system;

(d) Seek assistance from, among others, OHCHR, the Centre for International Crime Prevention, the International Network on Juvenile Justice and UNICEF, through the Coordination Panel on Technical Advice and Assistance on Juvenile Justice.

9. Optional protocols

66. **The Committee encourages the State party to consider ratifying and extending to the Netherlands Antilles the Optional Protocols to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, and on the involvement of children in armed conflict.**

10. Dissemination of the report, written answers, concluding observations

67. **In light of article 44, paragraph 6, of the Convention, the Committee recommends that the initial report and written replies submitted by the State party on the Netherlands Antilles be made widely available to the public at large and that the publication of the report be considered, along with the relevant summary records and concluding observations adopted thereon by the Committee. Such a document should be widely distributed in order to generate debate and awareness of the Convention and its implementation and monitoring within all levels of administration of the Netherlands Antilles and the general public, including concerned non-governmental organizations.**

68. **Finally, the Committee expects the next periodic report of the State party to include information from all three autonomous entities of the Kingdom of the Netherlands.**